

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WYDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

# CONFERENCE REPORT ACCOMPANYING THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002—Continued

Mr. LEVIN. I believe under the unanimous consent agreement that has been entered into, we will have a period of, I believe, 2 hours for debate which I hope perhaps will be reduced. In any event, the first half hour was to be under the control of Senator BYRD.

The PRESIDING OFFICER. The Senator is correct.

The distinguished Senator from West Virginia.

Mr. BYRD. Madam President, I thank the Chair and I thank my distinguished colleague, the chairman of the Armed Services Committee.

Madam President, I was troubled by President Bush's announcement this morning to withdraw the United States from the Anti-Ballistic Missile Treaty of 1972. This development has earth-shaking implications for our national security, especially in considering the potential range of reactions from Russia and other nuclear powers, including China. Arms control is bound to become more difficult as these countries work to make sure that their nuclear deterrent can still work when—or if—we successfully deploy an anti-missile system. While bringing us no closer to realizing a workable national missile defense system, withdrawal from the ABM Treaty signals to the world that the United States seeks a dominant, not a stable, strategic nuclear position.

I am not an expert on the technology used in nuclear weapons or ballistic missiles. But I do know that China has twenty missiles capable of delivering nuclear weapons to our shores. China has been satisfied that these twenty missiles provided it a nuclear deterrence against other nuclear powers, including the United States. As a result of this move by the President against the ABM Treaty, I have no doubt that China will seek a larger, more sophisticated nuclear arsenal. Does that make the United States more or less secure? What about our allies and friends overseas?

Does a larger Chinese nuclear arsenal help the President of South Korea sleep at night? What about the Prime Minister of Japan, or even the Prime Minister of Britain? Clearly, our friends have good cause to be concerned about U.S. withdrawal from the ABM Treaty. I do not believe it is an overstatement to say that withdrawing from the ABM Treaty will have serious consequences for our allies, and by extension, on our national security interests.

I also know that many experts on missile technology have grave concerns about how easy it would be to build

missiles that can fool a national missile defense system, rendering it useless. Russia has already developed a missile that could pierce our planned missile defense system, even if it worked. And I think that one can bet that China is working on similar technology. If China and Russia, two countries with past records of sending missile technology to the likes of Iran and North Korea, have the technology to fool our missile defense radars, how long do you think it will take for that technology to end up in the hands of rogue states? I understand the President's desire to develop a national missile defense system for the United States. I support that goal, as long as it produces a system that is feasible, affordable, and effective. However, we have no assurances at this point that an effective missile shield can be developed. We are operating on little more than conjecture and speculation. Can a reliable, workable missile shield be developed? We're not sure. How many missiles can a missile shield deflect? Good question. What will it ultimately cost? No idea.

To jettison the ABM Treaty with no replacement agreement in hand and no better understanding of how or whether a missile defense system will work—and that is where we are right now—to bring additional turmoil to a world that is already reeling from the terrorist attacks on America is, in my opinion, a rash and ill-considered course of action.

The United States has been engaged in intensive arms control talks with Russia over the past several months. These talks have focused on two key issues: first, altering the ABM Treaty to allow the United States to increase its missile defense testing, and second, negotiating reductions in the nuclear arsenals of both the United States and Russia. Russia has repeatedly expressed its belief that the ABM Treaty is the "cornerstone of strategic stability." By limiting the development of missiles that could shoot down an opponent's nuclear missiles, the argument goes, both the United States and Russia understood the strategic capabilities of the other—of each other. Indeed, progress in first limiting the nuclear arms of the United States and the Soviet Union was concurrent to progress in limiting the development of anti-ballistic missiles. In the three decades since the ABM Treaty and the Strategic Arms Limitation Treaty were ratified, the United States has been able to reach consensus with the Soviet Union—and later Russia—on the principles of the Strategic Arms Reduction Treaties, commonly known as START, to steadily reduce the nuclear arsenals of both countries.

These arms reduction treaties have slashed the nuclear arsenals of our two countries by over half over the last decade. All the while, the ABM Treaty provided the strategic stability to allow these cuts to occur without threatening the strategic balance between the two nuclear giants.

Senator BIDEN, the chairman of the Foreign Relations Committee, spoke very clearly yesterday on his concerns over a precipitous withdrawal from the ABM Treaty. I thank the Senator for his remarks, and for his valuable insight into this very troubling subject. The Constitution of this Nation deliberately established a clear separation of powers among the executive, legislative, and judicial branches of the Government. Article II, Section 2, gives the President the power to make treaties "by and with the consent of the Senate." There is a reason for that caveat, and the reason is that treaties among nations are enormously important instruments of power. The framers of the Constitution recognized the importance of treaties, and saw the potential danger of allowing any individual to enter into a treaty with another nation. The required acquiescence to any treaty by two-thirds of the Senate is a fundamental part of the checks and balances of our Government.

This is what disturbs me so greatly about the President's announcement of withdrawal from the ABM Treaty without seeking the advice or consent of Congress. And this announcement comes on the heels of the President's declaration a few weeks ago that he is willing to further reduce America's nuclear arsenal on the strength of a handshake from his Russian counterpart, Vladimir Putin, instead of pursuing the START process. Again, the decision was made without seeking the advice or consent of Congress. To me, shutting Congress out of the decision-making process involving agreements among nations is a dangerous—a dangerous and corrosive course of action. It effectively undermines, I think, the intent of the framers of our Constitution. Monarchs make treaties. American Presidents propose treaties. They make treaties by and with the consent of the Senate. There is a tremendous difference between the two, and defining such differences is the essence of our Constitution.

I recognize that under the terms of the treaty, the President has the legal right to withdraw from the ABM Treaty with six months notice. I recognize that, upon adoption of the Defense authorization conference report, which strikes an existing prohibition, he will have the legal authority to reduce the U.S. nuclear arsenal without the consent of Congress. But I also believe that it would be a violation of the spirit of our Constitution to take either course of action without seeking the endorsement of the Senate. I think that the President's contention that the ABM Treaty is a cold war relic merits some consideration. His belief that it is time to move onto a new framework for missile defense reflecting the new realities of a world with multiple nuclear powers and would-be nuclear powers, makes a great deal of sense.

The President's ABM and weapons reductions proposals merit debate and

consideration in the Senate. I know there are some in this body who agree with him wholeheartedly and others who disagree just as passionately. I would like to hear their views on both sides. The American people should have the opportunity to hear the views of each side. But by the President deciding unilaterally to withdraw from the ABM Treaty and to reduce America's nuclear stockpile on the strength of a wink and a nod, the American people are denied a voice in the decision—a voice by the Senate—a decision, by the way, that will affect the security of the American people and the stability of the world for years to come.

Our hands are effectively tied at this point. The Defense authorization bill, in which we could have dealt with both of these issues, is for all intents and purposes signed, sealed and ready for delivery to the Senate for a vote in the Senate. A statutory prohibition preventing the President from reducing the U.S. nuclear arsenal below the levels established in START I is eliminated in that bill. A well-reasoned provision that would have conditioned the expenditure of FY 2002 missile defense funds on U.S. compliance with the ABM Treaty was thrown overboard before the Senate even took up debate on the Defense authorization bill.

We are advancing headlong into committing our nation and our treasure to an untried and unproven missile defense system, which we may or may not need and which may or may not protect us, while at the same time we are in full retreat from arms control treaties and policies that have helped stabilize the world for decades. We are looking to expand our military might from the land, seas, and skies into the heavens. The Department of Defense is investigating ways to use space as the "ultimate high ground" in military operations, expanding upon the peaceful use of satellites for intelligence and surveillance. No one is sure exactly where this research is leading, but we ought to have a full debate on the weaponization of space before these types of technologies are realized. We are taking these major, major steps without the nearest scrap of debate, discussion, or decision in the United States Senate.

You can be assured that I am as eager as anyone to reduce the number of unnecessary weapons in our country. But I am decidedly less than eager to pursue such a course of action without ensuring that Russia is on the same glidepath. Without a written agreement, without a treaty, such assurances cannot be made. We cannot verify intentions without a verification regime. We cannot measure progress without a formal system of monitoring. We cannot be assured of compliance without written guidelines spelling out what compliance means. A handshake, no matter how sincere or well-intentioned, is no substitute for a signature.

A President may be here today and may be gone tomorrow. A President of

Russia may be here today and may be gone tomorrow.

A handshake was all right back in the old days when the Senator from Virginia and I decided that we would like to trade cows, or a couple of horses we would like to trade, or I would like to buy his crop of cane molasses. But when dealing between nations, we can't be content with a handshake or just looking into the other person's eyes and reading his soul. Things have to be put in writing. A handshake, no matter how sincere or well intentioned, is no substitute for a signature.

As Ronald Reagan so famously exhorted, "Trust, but verify."

It may have been W.C. Fields who said something to the effect: Trust, but always cut the deck. It was something like that. Always cut the deck.

Similarly, there is no vehicle before us for debate or a vote on the merits of withdrawing from the ABM Treaty. We gave away the opportunity to discuss this matter in the context of the Defense authorization bill in the interests of comity. We relinquished our right to even debate whether to condition missile defense funding on compliance with the ABM Treaty. Now, we are at the mercy of the President. He has to be aware that this is a contentious issue. He has to be aware that many members of this body have grave concerns over his decision. He has to be aware that a decision to withdraw from the ABM Treaty will have global ramifications.

As of this morning, it appears that withdrawal of the United States from the ABM Treaty is a done deal. I would have strongly preferred to have the President give more consideration to the role of Congress in foreign and defense affairs. He could have chosen to consult with Congress, and submitted to the Senate a formal resolution of withdrawal on which we could debate and have a vote. It appears that we are now past that point. But I would urge the President to put any agreement to reduce our nuclear arsenal in writing, as President Putin has requested, and to submit that agreement to the Senate so that the legislative branch, as intended by the framers, will have voice in the execution of such an important agreement between nations.

The issue of missile defense, the future of the ABM Treaty, and the future of the U.S. nuclear weapons arsenal are matters of the gravest importance. These are matters that deserve the full and undivided attention of the President, the Congress, and the Nation. These are not decisions that should be sprung on the nation in a speech or at press conference. I hope that the President will make the effort to include the legislative branch—the people's branch—in making any future, final decisions relating to these matters.

Mr. WARNER. Mr. President, will our distinguished colleague yield for a question on the speech he has just given?

Mr. BYRD. Yes.

Mr. WARNER. Mr. President, it was very interesting. I followed it very

closely. The Senator from West Virginia is a valued member of our committee. I fully admit that I advanced in the course of our hearings in markup, and likewise the various provisions, which give rise to the Senator's concern.

I strongly support the President's action of exercising article 15 and giving notice. But I must say I am intrigued by the comments of the Senator from West Virginia. He obviously has done a good deal of research.

What are the precedents by which a President feels that a treaty is no longer of value to our Nation? Have they heretofore formally consulted and notified particularly the Senate which has to give the advice and consent? I will research that. But I was interested to the extent that the Senator might have some knowledge of it. We have had, I guess, minimal consultation.

The distinguished Senator from West Virginia, my colleague—I have been here 23 years; my colleague has been here many more years than I. I recall that many times we would sit down with Presidents and discuss momentous decisions regarding foreign policy informally. Then we had extensive hearings on the ABM Treaty. In each one, I advocated that we basically take the action our President was taking. But I am trying to think of the consultative process.

At this particular time, the best that I know is there were telephone calls with the Secretary of Defense and discussions with me about it. I presume that occurred with my chairman and perhaps the Senator from West Virginia. But what are the precedents for Presidents in a more formal way advising the Senate about the fact that he has reached a decision that a treaty is no longer of value to this country, and, therefore, he is going to exercise such a provision as the treaty may provide for the withdrawal?

Mr. BYRD. Madam President, as I have stated, I don't question the President's legal right to do that. That is not the question.

I think the question is, as I have tried to pose it, that the Senate, a body which, under the Constitution, approves or disapproves the ratification of treaties, should have an opportunity, in the case of the ABM Treaty—a treaty of such significance as this one has been and is—the Senate should have an opportunity to debate this. As I have indicated, I think the President should have asked for some advice from the Senate. He does not have to take the advice, but I have seen no evidence of the President seeking advice on this matter. He simply made up his mind to do it and did it.

Mr. WARNER. But he did forewarn the Nation.

Mr. BYRD. Yes.

Mr. WARNER. Our Nation.

Mr. BYRD. Yes.

Mr. WARNER. The Congress, President Putin, and others that that was his intention. He did have a series of

consultations with President Putin, his key aides, his Secretary of State, his Secretary of Defense, and, likewise, the National Security Adviser. But I guess we come back to the problem that you feel it was a matter of comity, not of law, that he—

Mr. BYRD. I say that he had the legal right.

Mr. WARNER. To do what he did.

Mr. BYRD. But if the Senator will recall, let's go back to the time when we were considering the INF Treaty. Mr. Dole was the leader on that side of the aisle. I was the leader on this side. And the Reagan administration sought to reinterpret the ABM Treaty to its own way of thinking at that time. There was a big dispute about this. There was a lot of pressure on me, as the majority leader at that time—the Senator probably didn't realize that, but I have not forgotten—to bring up the INF Treaty.

I said: Well, let's see what Mr. Nunn, the chairman of the Armed Services Committee, has to say about that. And let's see what Mr. Boren, the chairman of the Intelligence Committee, has to say. And let's see what Mr. Pell has to say. Now, when they all come back to me and give a report to me that they are satisfied with this, then we will call it up.

There was great pressure on me to bring up that treaty because President Reagan wanted to go to Moscow and sit down with Mr. Gorbachev and have an exchange of ratification papers on the INF. Mr. Baker, at the White House, was going to be there also. But I waited until those three chairmen of the Armed Services, Intelligence, and Foreign Relations Committees, respectively, were satisfied about the treaty.

As the Senator will recall, out of that delay Mr. Shultz went to Paris, I guess it was, and met with Mr. Schevardnadze and brought back something in writing, and we all reached an agreement that any reinterpretation of the treaty had to be agreed upon and approved by the Senate. And we are talking about the ABM Treaty.

I believe it was agreed that the interpretation of the treaty would be based on the testimony of witnesses, the actual language within the four corners of the treaty, and the interpretation by the then administration expressed through its witnesses in Senate hearings, and that any subsequent administration could not change that reinterpretation without going through this process and having the approval of the Senate.

Now, I say all of that, and my memory may not be exactly accurate on every point. That was back in 1987 or 1988, somewhere along that line, a long time ago.

Mr. WARNER. Madam President, I remember. I was here.

Mr. BYRD. At that time we were very concerned about a subsequent reinterpretation of the ABM Treaty, the ratification of which the Senate had approved, by a subsequent administration. Otherwise, a treaty would be

without any value if a subsequent administration could come along and reinterpret a given treaty based on the way it saw things at that later time.

I say all that to my good friend from Virginia because I have been involved in the ABM Treaty for a long time. At that time we saw it as a matter of grave importance that an administration be allowed to reinterpret that ABM Treaty without subsequent hearings and without subsequent approval by the Senate as to the interpretation.

But here we are today, and we are walking away from that same treaty, and the administration—the President did announce this in the newspaper, but I saw nothing that was ever sent up. I do not remember ever seeing any letter from the President to the chairman of the Armed Services Committee or the Appropriations Committee or the Foreign Relations Committee or the Intelligence Committee.

Now, there may have been such, but I was not aware of it. The President said, some time ago, he was thinking about doing this. He did not feel that anything needed to be put in writing. That, to me, is enough to keep me awake at night. When a President says he does not think something of this nature has to be put in writing, that a mere handshake is good enough, that is a rather scary way of looking at it as far as I am concerned.

So this is why I say, I am sorry—I am not sorry we are reducing our arsenal. We ought to do that. It is costing too much, and we do not need it. But for the President just to walk away from the treaty, and the Senate not to have had any expression from the President in writing, or any formal expression at all—the Senate, as far as I am concerned, was ignored in this matter. This is what puzzles me. I am sorry that the Senate apparently is willing to just lie down, be quiet, and not ask any questions.

Mr. WARNER. Mr. President, I thank my distinguished colleague. I do not feel that he just walked away.

In deference to your observations, he did, through a series of hearings with his key advisers, through public statements, clearly indicate his strong dissatisfaction with a treaty which has served its purpose, in my judgment, and now, given the turn of events—particularly those on September 11, when our Nation was shocked at the devastation brought on by terrorists—he feels it imperative, that it is his duty to now begin to proceed to explore technology and options which could lead to an effective system that hopefully will be deployed.

But I just wanted to see—

Mr. BYRD. See, I do not see that nexus. I do not see that connection.

Mr. WARNER. I just wanted to see if there were precedents. Perhaps henceforth the Senate, in the advice and consent process, should put a—what do we call it?

Mr. LEVIN. Condition.

Mr. WARNER. Yes, into a treaty requiring the President, before any

amendment or reinterpretation, to come back and seek the advice and consent of the Senate on his proposal. There we state very clearly. But so far as I know, I do not know of a requirement or a precedent which our President has broken, nor did he do anything that was not in accordance with the law and/or the terms of the treaty.

Mr. BYRD. I have already said the President did not do anything that is not in accordance with the law. He has not done anything that is illegal.

But let's see if your imagination and mine might be stretched to the farthest limit. Let's imagine I became President. And that taxes the imagination.

Mr. WARNER. No. I think you would do quite well.

Mr. BYRD. In the farthest stretches of the imagination, if I were President, I would not think of walking away from a treaty—the ABM Treaty—one that has served the Nation well, without at least having the Senate in on the action. I would find some way to get some expression and view from the Senate.

As it is, no Senator here has pointed out to me, tonight at least, that that effort was made. I think the administration would be much wiser if it took the Senate into consideration and had some expression of support; let the American people hear some debate in the Senate. I think the administration would be much wiser if it let the Senate in on the matter and sought its advice.

Mr. WARNER. I thank my colleague. I remember the many debates we have had in the past on the War Powers Act. Although that act is observed in spirit by Presidents, Republican and Democrat, they certainly have never accepted it really as the letter of the law. It does explicitly set out the need for consultation with the Congress.

Mr. BYRD. It does.

Mr. WARNER. And we have had various forms of consultation heretofore.

Mr. BYRD. It also requires reports from the President.

I thank the distinguished Senator.

Madam President, the conference report to the fiscal year 2002 Defense authorization bill before the Senate today contains many provisions that will help the men and women who serve our country in uniform. The bill provides for pay raises, increased educational benefits, and better housing for our military personnel. It authorizes important funds for the military services' counter-terrorism programs, and enhances efforts to improve the serious accounting problems of the Department of Defense.

Unfortunately, as developments unfolded in our strategic relationship with Russia on nuclear weapons and the Anti-Ballistic Missile Treaty, it became clear to me that the conference report before us does not move us in the right direction on those two critical issues. It is the importance of our strategic relationship with Russia, and

the rest of the world, that compelled me to oppose this conference report. The conference report eliminates a provision of law that forbids the President from reducing our nuclear stockpile below the levels laid out in the Strategic Arms Reduction Treaty of 1991, which total about 6,000 warheads. Assuming that this conference report is enacted into law—and I assume it will be on its way to the President—the President will then be accountable to no one on how much he would like to reduce our nuclear arsenal. The President could call for these cuts without so much as one minute of debate in Congress.

Let me be perfectly clear for the third time: I do not oppose reductions in our nuclear arsenal. The cold war has passed into history, and to a great degree, so has the logic of maintaining thousands of nuclear weapons pointed at a country that no longer advocates the destruction of our way of life.

In the next fiscal year, the Department of Energy will spend \$5.4 billion on our nuclear stockpile. That is serious money. I do not know exactly how many nuclear warheads we need to maintain, but I cannot think of one good reason to continue spending that much to maintain far more nuclear warheads than what almost all experts believe to be appropriate to meet our national security requirements. However, we must consider the role of Congress in our national defense, as spelled out in the Constitution. To me that is the bedrock of the Republic, Congress, the people's plans, the control over the purse. Article I, Section 8, Clause 12 reads: "The Congress shall have the power to raise and support armies, but no appropriation of money to that use shall be for a longer term than two years." The Constitution does not give the executive branch the power to raise armies. That is congressional power. The Constitution gives that power to the legislative branch, the Congress. The document that establishes our republic says that Congress, not the President, shall have the power to support armies, to maintain navies.

Clearly, the Founding Fathers did not want the chief executive to have the sole power to determine the size and shape of our military. By eliminating the one statutory restriction on the President's action with regard to the size of our nuclear forces, we in Congress have turned our back on that responsibility. I have already spoken today on the President's announcement to withdraw from the ABM Treaty. I believe that it is an ill-timed move that should have been subject to consideration and debate in the Senate. I supported a provision that was included in the original version of the Defense authorization bill as passed by the Armed Services Committee to limit our missile defense testing for the next 9 months to those tests that are allowable under the ABM Treaty. Those restrictions could have been waived under two circumstances: first,

if the United States and Russia reached a new agreement on missile defense testing, or if there was an affirmative vote in both houses of Congress to authorize the tests. This was a reasonable provision. It protected the constitutional duty of Congress in national defense and foreign affairs.

I regret that, following the tragic events of September 11, this provision was dropped from the bill without so much as a vote. I can understand the great desire on the part of all of us to support the President in a moment like this. Considering the President's announcement this morning on withdrawal of the United States from the treaty, we should have had a fuller debate on the ABM Treaty provisions. What is history going to read? Where is history going to go? Where are the Senators of tomorrow going to look in the record for a debate on this very important matter? While I voted against this conference report, I appreciate the work that the chairman and ranking member of the Armed Services Committee, Senator LEVIN and Senator WARNER, have put in on this bill. They have few peers in their knowledge of the challenges facing the armed services. For the 7 weeks that this bill was in conference, they have had an exhausting schedule of meetings with their House counterparts, often meeting several times each day. They have continued the tradition of bipartisanship on the Armed Services Committee, and their staffs likewise have labored day and night, hour after hour to bring forth this legislation.

The issues of nuclear arms reductions and national missile defense should not disappear from our consciousness because of the President's announcement on the ABM Treaty. I hope that it will focus the attention of other Members of the Senate to the need to safeguard the role of Congress in defense and foreign affairs. While I look forward to future debates on these vital issues, I deeply regret that this Defense authorization bill did not tackle them head-on, have a debate, votes thereon, and for that reason I voted against its adoption.

I yield the floor.

Mr. WARNER. Madam President, this morning, President Bush announced that he had given Russian President Putin formal notice that the United States—pursuant to article 15 of the 1972 Anti-Ballistic Missile Treaty—was exercising its right to withdraw from that Treaty. That article provides that "each Party shall . . . have the right to withdraw from this Treaty" with six months notice. I support the President's action.

The ABM Treaty has served the cause of peace well for many years, but the Treaty has completed its mission. It was negotiated and signed in an era when the United States and the Soviet Union were implacable enemies. I, as Secretary of the Navy, was in Moscow in May 1972, where President Nixon signed the ABM Treaty for the United

States. Each nation sustained large nuclear forces aimed at the other. The Treaty was seen as a means of controlling the arms competition between our two nations and as a building block to other arms control agreements. It has served its purpose. But the cold war, as President Bush noted in his remarks today, is long over. The Soviet Union has fallen, and Russia is, in the words of President Bush, no longer an enemy. Our President is pursuing with Russia a new strategic relationship. As President Bush has said, "We're moving to replace mutually assured destruction with mutual cooperation." President Putin has accepted this new challenge and we can expect the two Presidents to make further progress. Now our President must explore new technologies and provide a system to protect our people from attacks by a limited number of missiles.

The events of September 11 dramatically illustrate that this nation has enemies willing to go to extraordinary lengths to attack our homeland and indiscriminately kill thousands of innocent civilians. Where some doubted such devastation to our nation could ever occur, all doubts are now gone. We know that terrorists are seeking to acquire weapons of mass destruction, and we know that many of the nations that support the terrorists either have, or are seeking to acquire, both weapons of mass destruction and the means to deliver them.

It is the first obligation of any U.S. President to provide for the defense of our citizens and our vital national interests. President Bush is committed to protecting our nation—from all known threats. His commitment to provide defenses against attack from a limited number of ballistic missiles, and his determination to move beyond the ABM Treaty are motivated by this solemn obligation.

From the inception of the new administration, President Bush and his key advisors have persistently pursued with Russia, through a series of consultations, a framework of understandings that would enable the United States to perform testing of new options and other steps leading to the eventual deployment of a ballistic missile defense system. These discussions will continue, but it is timely for the United States to give notice under article 15. Some have claimed that exercising this option to withdraw is a "violation" of the Treaty. It is not. It is not a "violation" to exercise our rights under article 15.

The Russian Government certainly recognizes and accepts this. Indeed, the statements coming from Russian leaders indicate that President Bush, and his key aids, have carefully laid the groundwork for U.S. withdrawal from the treaty. The U.S. action was preceded by U.S. and Russian commitments to accomplish the most dramatic reductions in offensive nuclear forces in the history of arms control. This was a high priority for Russia.

There is no sense that U.S. withdrawal will result in a new arms race. There is, instead, a sense of acceptance and a recognition that our close relationship will continue to grow.

The President has an obligation to defend this nation—from all known threats. Deliberately leaving our nation vulnerable to missile threats in a world so unpredictable and dangerous is not the wise course of action. We cannot, and must not, allow another nation to have a veto over our right to defend our homeland and our people. The President has acted courageously. He has my full support.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, first let me thank our good friend from West Virginia for his kind remarks about myself and my ranking member.

I yield myself 10 minutes. I would like to comment on a few things which the good Senator from West Virginia said.

Mr. WARNER. Would the Senator yield so that I could join him simply in thanking the Senator for his reference to the two of us and our staffs. We very much value his work as a member of the Armed Services Committee.

Mr. BYRD. I thank both Senators. Concerning the work, the diligence, the dedication, and the loyalty to our country that is constantly being demonstrated and exhibited by these two leaders of the Armed Services Committee, my words fall pitifully short in expressing my true respect for these two Senators.

They leave nothing undone when it comes to the expenditure of hours, labor, toil, and sweat. I also say the same with regard to the staffs of both Senators. As a Member, I have been treated very fairly on both sides. I thank the Senators.

Mr. LEVIN. I thank our dear friend. Madam President, I totally agree with the Senator relative to the unilateral decision made by the President today to withdraw from the ABM Treaty. I think it is a serious mistake.

I made a statement earlier today going into great detail as to why I think it was a mistake. I don't think any subject has taken more time of our committee than the national missile defense program and its relationship to the Anti-Ballistic Missile Treaty. I will read from the long statement that I made today relative to this subject:

Ensuring the security and safety of the American people, especially from weapons of mass destruction, must remain our first defense priority. If I believed that withdrawing unilaterally from the Anti-Ballistic Missile Treaty would enhance our national security, I would support doing so. However, the President's announcement that the United States will unilaterally withdraw from the ABM Treaty is a serious mistake for our national security. It is not necessary and it is not wise.

Unilateral withdrawal is not necessary because the ABM Treaty is not a significant constraint on testing at this time. Indeed, until a few months ago, the Ballistic Missile Defense Organization, BMDO, was proceeding

with research, development and testing that was entirely consistent with the treaty. This approach recognized that the United States can develop and test national missile defenses and stay in the treaty. However, the administration then added new tests that would conflict with the treaty—even though these tests are of marginal value.

Unilateral withdrawal is not wise because it focuses on the least likely threats to our security rather than the most likely threats. The Joint Chiefs of Staff believe that ballistic missiles are the least likely means of delivering a weapon of mass destruction to the United States. The more likely threat comes from a nuclear, biological or chemical weapon being delivered to the United States in a plane, truck, ship or a suitcase, which would be more reliable, less costly, harder to detect and have no "return address" against which to easily retaliate. We need to focus on the most likely threats to our security before accelerating the spending of billions of dollars for defenses against the least likely threats.

Unilateral withdrawal is not wise because it needlessly strains our growing relationship with Russia, a partner in the new war on terrorism. The President's decision also seems to be a violation of his campaign pledge at the Citadel in September 1999, that, if elected, he would "offer Russia the necessary amendments to the Anti-Ballistic Missile Treaty." From newspaper accounts it appears that the administration did not offer amendments to the Russians that would allow us to proceed with the new tests that the administration added. Instead, something much broader was proposed by the administration and not necessarily in the form of amendments. In other words, rather than proceeding with tests permissible under the ABM Treaty or reaching agreement with Russia on amendments to allow for further testing and maintaining the right to withdraw at a later time, the administration has decided at this time to unilaterally withdraw. This is not the way to treat an important nation with which we seek a new relationship based on mutual cooperation. It is fair to ask: What specific amendments to the ABM Treaty were proposed to the Russians by the President as he promised?

Unilateral withdrawal is not wise because it risks upsetting strategic stability. It risks a dangerous action-reaction cycle in offensive and defensive technologies that would leave America less secure. Even though the missile defense system being pursued by the administration is limited, the technologies that would be created as part of this limited system could quickly lead to a much larger program that could—in Russian eyes—undermine their nuclear deterrent. This could prompt Russia to take the destabilizing step of putting multiple warheads on missiles, so-called MIRVed missiles. This could lead China to rapidly increase their nuclear program. It could also lead China or other countries to devise countermeasures and decoys that they could then sell.

Finally, the President's decision to withdraw unilaterally from the ABM Treaty is not wise because it risks undermining our relationships with allies, partners and other nations just when the world is united in a common fight against terrorism. As this multilateral effort clearly demonstrates, our security is enhanced when we make common cause with other nations in pursuit of common goals. In both the short-term and the long-term, our security is diminished when we forge ahead unilaterally regardless of the impact on the security of other nations.

The Armed Services Committee will hold hearings on the administration's decision in the weeks and months ahead.

Madam President, I start with a very strong "Amen" to the Senator from

West Virginia on his comments relative to the decision of the President to unilaterally withdraw from an arms control treaty, with no new structure in its place. He has decided to tear down the old structure, which has produced significant stability when the cold war was on and after it was over. Unilateral withdrawal could unleash some very negative forces in this world. It could unleash an arms race in offensive measures, countermeasures, ways to defeat limited defenses, decoys, and ways to overcome those countermeasures. The marginal gain that will be achieved in terms of the proposed additional testing is so marginal it doesn't come close to outweighing the negative forces that now are likely to be unleashed.

The likelihood that we would be attacked by a state with a ballistic missile—we have been told by our top military people—is very slim. The greater likelihood is that a weapon of mass destruction would be delivered by a truck, a ship, a suitcase, or by an airplane, which have no return address the way a missile does. You don't know from where that suitcase or truck comes. They make it harder to find the source. But with a missile, you know the source. Whoever launched a missile, if they could get their hands on one, would be immediately destroyed. The idea that a North Korean regime would attack us with a missile, which would lead to their immediate destruction, runs counter to what the intelligence community has told us: Their first goal in life is their own survival.

So in tearing down this security structure, this source of stability, without having anything in its place, to address the least likely means of delivery, means that we will be spending a huge amount of resources against the least likely threat, instead of putting those resources on the most likely threat, which are the terrorist threats, delivering a weapon of mass destruction with a truck, or a ship, or an airplane.

We have, by this action of the President today, removed a structure that made it possible for us to have a stable relationship and allow us to be much more, it seems to me, rational in the use of our resources.

So I agree with the Senator from West Virginia on that point. I want to reassure him of a couple things, if I can. First of all, the language I had offered in the committee requiring a vote before any of the funds that are authorized or appropriated would be used for any test in conflict with the ABM Treaty was language which, by its own terms, did not affect the power of the President to withdraw from the ABM Treaty. Subsection (d) of that language, which I had offered, and we were able to pass with the help of the Senator from West Virginia—by one vote in the Armed Services Committee—explicitly said: Nothing in this section shall be construed to limit the authority of the United States to withdraw

from the ABM Treaty at any time upon a decision of the United States that extraordinary events relating to the subject matter of the treaty jeopardized the supreme interest in accordance with article XV of the treaty.

To the extent that that is reassuring, the language that was removed, for reasons which I gave at the time, did not prevent the President from withdrawing from the treaty. In fact, if it had prevented the President from withdrawing from the treaty, we would not have been able to get the majority vote in the Armed Services Committee. Some colleagues would not have voted for it if it had limited the President's right to withdraw from the ABM Treaty.

The second thing I want to say to our good friend from West Virginia is this: The language that prohibited the executive branch from going to a lower level of nuclear weapon delivery systems, below the START I level, has been in the law for a number of years. We have tried to remove that language for many years. Indeed, I think the Senator from West Virginia may have supported that effort at times to remove that language. The uniformed military has urged us to repeal that language. The top defense civilian leadership has urged us to repeal that language.

But I want to assure the chairman of the Appropriations Committee of something that he knows better than any Member of this body, so I am even a little reluctant to give him this assurance, because if anybody stands for what I am going to say, it is the Senator from West Virginia: Nobody can take away from the Congress the power of the purse. Nobody. Nobody can take away from the Congress the power to tell the President of the United States you must have whatever level of nuclear forces we determine you must have.

Mr. BYRD. The Supreme Court ruled within the last couple of years that Congress could not give away its constitutional power.

Mr. LEVIN. Indeed, we cannot.

Mr. BYRD. The Senator from Michigan, together with the then-distinguished Senator from New York, Mr. Moynihan, and the then-Senator from Oregon, Mr. Hatfield, and I sought to bring that case before the Court. The Court said we didn't have standing. But subsequent to that, other parties that did have standing, and were recognized as having standing by the Court, pursued that case. The Court, throughout that—I am trying to think of a word I can safely say here in the Senate about the line-item veto.

Mr. LEVIN. I would suggest the word "abomination."

Mr. BYRD. The Supreme Court, throughout that miserable piece of legislation, upheld the fact that, as the Senator said, the Congress cannot give away its powers as set forth under the Constitution.

Mr. LEVIN. And that is what I just want to reassure my good friend from

West Virginia that he has been the most steadfast, the most valorous, and the most determined representative of that point of view. I was proud to join him in the Supreme Court.

The Appropriations Committee, of which our good friend is the chairman, has determined there will be funds in fiscal year 2002 for 500 minutemen ICBMs—it is in your bill—and for 50 peacekeeper ICBMs. There will be 17 to 18 Trident subs. There will be 94 B-52Hs. That is the power of the purse. So we have done nothing to diminish that power. The President cannot take that away. We could not give it away. We should never try. But if anyone ever tried, we can't give it away. The chairman of the Appropriations Committee and the appropriators, and then ultimately this Congress, determines what level of weaponry we are going to fund and what must be maintained. We determine that.

Nothing in this bill changes that. That continues to exist. But what we did do is remove a prohibition in permanent law that said—not the annual appropriation, which continues to be ours, and ours alone, but a permanent law—we had what I considered to be an artificial prohibition that they had to stay at the START I level instead of leaving that to the annual appropriations process; it was something in permanent law.

There are a number of us who have been trying to remove that prohibition for years. We thought it was no longer appropriate. The military and defense officials were saying we were spending a lot of money we should not spend, and our conference successfully repealed that prohibition this year. It does not in any way diminish the power of this Congress, which was just exercised on the appropriations bill again this year to determine the level of nuclear forces or any other weapons we have in our inventory.

That remains, should remain, and always must remain the power of the Congress, the power of the purse.

Madam President, this is no ordinary time. Two days ago, the Nation observed the 3-month anniversary of the most deadly attack ever against the United States. For more than 2 months, U.S. forces have been engaged in a military campaign on the ground and in the skies of Afghanistan. Their success has been remarkable: after just 9 weeks, the Al Qaeda terrorist network is on the run, and the Taliban regime that harbored them is no more. Our brave men and women in uniform embody America's determination to protect our citizens from more terror and our resolve to track down and relentlessly pursue terrorists and those who would shelter them. And even as we continue to remove flag-draped coffins from the ruins in New York, flag-draped coffins have returned from Afghanistan with the bodies of heroes who have given their lives for our freedom, including our freedom from fear.

Against this background, I am pleased to bring to the floor of the U.S.

Senate the National Defense Authorization Act for Fiscal Year 2002. The conferees have produced a good, balanced bill that will strengthen our national security. The U.S. military is the most capable fighting force in the world today, and this bill ensures it will remain so, especially as it is engaged in a war against terrorism.

This bill reflects the contributions and hard work of many, many people over many, many months. I am grateful to Senator WARNER for working with me every step of the way in producing this bill. We have served together on this committee for more than two decades. We agree on most things. When we disagree, we trust one another. No chairman could ask for a better partner. I want to take this occasion to express my gratitude for his invaluable support, which made this a better bill.

I also want to thank the chairmen and ranking members of the subcommittees for their help in the conference and throughout the year in completing action on this important bill.

Finally, I want to thank Representatives STUMP and SKELTON. Like Chairman STUMP, this was my first year as chairman. He was also chairman of the conference. As conferees, we faced many difficult decisions. This was a very challenging conference. But Representatives STUMP and SKELTON made a major contribution to produce a bill that is in the national interest. Madam President, the National Defense Authorization Act for Fiscal Year 2002 authorizes \$343.3 billion for national defense programs, the full amount requested by the President and in the budget resolution. This bill addresses a number of important priorities.

This bill builds on Congressional efforts in recent years to improve the compensation and quality of life for our forces and their families. It authorizes a pay raise of at least 5 percent for all military personnel, effective January 1, 2002, and targeted pay raises between 6 and 10 percent for mid- and senior-level enlisted personnel and junior officers. It extends critical bonuses and special pay authorities by 1 year. It authorizes personnel with critical skills to transfer up to 18 months of unused benefits under the Montgomery G.I. bill to family members in return for a commitment to serve 4 more years, an important provision Senator CLELAND has been fighting for for some time. It authorizes a plan to provide U.S. savings bonds to personnel who commit to serve at least 6 additional years of active-duty service in a critical specialty. It authorizes \$10.5 billion for military construction and family housing, an increase of more than \$500 million above the budget request. It includes a series of provisions to enhance the ability of military voters and their families to vote.

One of the most difficult issues for the conference was whether disabled military veterans would receive their



retired pay and veterans disability compensation concurrently. This is a popular and meritorious benefit that Senator HARRY REID has championed. I was disappointed that the House was unwilling to accept this benefit because it would have required a vote on the budget point of order. The conference agreement authorizes disabled military veterans to receive their retired pay and veterans disability compensation concurrently, but make this contingent on the enactment of legislation offsetting the cost of this benefit. The conference agreement also includes an extremely modest enhancement to special pay for retirees with service-connected disabilities. It is my hope that in the future Congress will allow our military veterans to receive the retired pay and veterans disability compensation that they earned and deserve.

This conference report improves the ability of U.S. forces to combat terrorism, and it improves the ability of the United States to combat the proliferation of nuclear, biological and chemical weapons. To help combat terrorism, it adds to the budget request: \$47 million for science and technology to help confront asymmetric threats such as chemical and biological warfare; \$17.4 million to procure additional protective equipment for chemical and biological agents; and, \$10 million to help fund our combatant commanders around the world fund high-priority projects to defend U.S. forces against terrorism.

This bill also authorizes the full \$403 million requested by the administration for the Cooperative Threat Reduction program to continue destroying and dismantling nuclear warheads and missiles in the former Soviet Union. The bill also adds nearly \$60 million for Energy Department programs and research to combat proliferation of such weapons. With this funding, the Congress gives additional tangible support to the continuing effort to reduce the threats posed by offensive nuclear weapons, their delivery systems, and related materials.

On missile defense, we followed the funding formula in the Senate bill, making a reduction of \$1.3 billion in the request and authorizing the President to use the \$1.3 billion for whichever he determines is in our national security interest: one, research and development of missile defense programs as previously requested; and two, DOD activities to combat terrorism. I sincerely hope the President will wisely choose to use these funds to combat the more likely threats to the United States from terrorism, rather than the least likely threat of a ballistic missile attack on our Nation.

The bill contains important language requiring the Department to provide additional information and program reviews to ensure adequate congressional oversight and transparency of the program. I would add that the Senate owes a great debt to Senator REED of Rhode

Island, who worked on this issue tirelessly over many months to reach this point.

The House bill contained language that could have been interpreted to authorize the use of Fort Greely, AK, as an operational ballistic missile defense site. A number of us in the Senate felt very strongly that we should not authorize an operational site in violation of the Anti-Ballistic Missile Treaty. So this language was modified in conference to clarify that Congress has authorized the construction of only those facilities that are necessary to establish a test bed, not an operational missile defense site.

As I already mentioned, the national missile defense testing program is not constrained at this time by the ABM Treaty. The President's decision to unilaterally withdraw from the treaty is a serious mistake for our national security. It is not necessary and it is not wise.

As I also mentioned, I am pleased that the conference report contains a provision from the Senate bill that would eliminate statutory restrictions on the President's ability to retire unneeded U.S. nuclear forces. We have been fighting for this flexibility for years, and I was disappointed that we had to drop a similar provision in the conference on last year's defense bill. This conference agreement allows the administration to move the United States toward lower nuclear force levels contemplated under START III and below, and toward levels being sought by the administration.

This bill allows for significant savings through improved management in several important areas of the Defense Department. This bill includes a major victory for good government and for the readiness and transformation of our military forces, it authorizes another round of base realignment and closure. The civilian and military leadership of the Department of Defense have told us over and over again, through two administrations, that DOD has excess infrastructure and needs a new round of base closures to free up billions in savings for higher priority defense needs. Senator MCCAIN and I have been fighting for a new BRAC for more than 5 years, and I am very pleased it is included in this bill.

This bill makes several minor changes to the previous BRAC process and to the Senate bill. Instead of occurring in 2003 as proposed in the Senate bill, the new round of BRAC will, in order to obtain approval by the House, occur in 2005. Even with this delay, the House held out until the last minute.

We also have tightened the provisions by which the base closure commission can add additional facilities for closure not already included in the list proposed by the Secretary of Defense. I want to be very clear about this second change. As in the past, the Secretary will propose to the commission for their consideration a list of installations he suggests for closure or

realignment. If the commission wishes to add to the Secretary's list more installations for its consideration, at least 7 of the 9 commissioners, a super-majority, must vote to do so. However, once an additional installation is added for consideration, the final recommendation on whether to close or realign it will be by a simple majority vote, 5 votes, of the commission, just the same as the original list. In other words, we have raised the preliminary hurdle for the commission to add to the Secretary's list installations for consideration, but the final hurdle, whether to actually include that installation in the commission's recommendation to Congress, will be the same for all installations and the same as in previous BRACs, that is, a simple majority.

BRAC was by far the most difficult issue in conference, and I want to especially thank Senator MCCAIN for his leadership and Senator WARNER for his support on this issue. Personally, I would have preferred BRAC in 2003 over 2005. But I also prefer 2005 over no BRAC at all. In the end, those were the options. This bill is clear, there will be another round of base closure in 2005. This is a major victory for those who want to give the Defense Department the ability to realize the significant savings that can only come from more base closures.

The bill provides for improved contract management and greater competition for the \$50 billion of service contracts awarded by the Department of Defense each year. Secretary Rumsfeld has testified that the Department should be able to achieve 5 percent savings across the board through management improvements. We have identified a number of management tools and strategies already in wide use in the private sector that should enable the Department to save billions of dollars on its service contracts over the next several years.

This bill makes the Defense Department, rather than Federal Prison Industries, FPI, responsible for determining whether FPI products meet the Department's needs. This means that private sector companies will have an opportunity to compete with FPI for Department of Defense contracts that are paid for with their tax dollars. It is fundamentally unfair that these companies have been denied this opportunity in the past, and I am delighted that we have finally been able to address this problem.

This bill makes significant contributions to the readiness of our military. It authorizes funding to improve the readiness of Army aviation, including: funding for 22 Black Hawk helicopters, 10 more than the administration requested; upgrades to Apache helicopters; and additional TH-67 training helicopters. It authorizes \$62.5 million for upgrades to the B-2 bomber and an additional \$100 million to maintain the B-1 bombers, which continue to demonstrate their effectiveness against

terrorist targets in Afghanistan. It authorizes \$55 million to upgrade engines and reduce maintenance costs for the F-15 and F-16 aircraft.

The bill also adds money to increase full-time manning in the Army National Guard; upgrade the Navy's electronic warfare aircraft; improve the operational safety and capabilities of our test ranges and space launch facilities; and continue modernizing the training aircraft used by the Air Force and Navy for the training of new pilots.

This bill also supports the transformation of our military to a lighter, more lethal, more flexible force. It authorizes the request of \$3.9 billion for the F-22, including funding to procure 13 aircraft. It approves the requested funding of \$3.0 billion for three *Arleigh Burke*-class destroyers, \$2.3 billion for one Virginia-class attack submarine, and \$370.8 million for one T-AKE auxiliary cargo and ammunition ship. It provides the full request of more than \$1.5 billion for the Joint Strike Fighter program. It authorizes nearly \$200 million for Navy transformation, including an increase of \$178 million for converting four excess Trident strategic missile submarines to carry Tomahawk cruise missiles, instead of two as requested in the budget. It authorizes more than \$561.3 million for Unmanned Aerial Vehicles, UAVs, including an increase of \$26 million for procurement of Predator UAVs, which have been used successfully in Afghanistan in the war on terrorism.

The conference agreement modifies the provisions that we adopted last year regarding the status of training exercises by the Navy and Marine Corps on the Island of Vieques. It cancels the referendum on live-fire training that was required in last year's authorization bill. It also authorizes the Secretary of the Navy to close the Vieques training range only if the Secretary certifies to the President and Congress, after reviewing the recommendations of the Chief of Naval Operations and the Commandant of the Marine Corps, that an alternative facility or facilities will provide equivalent or superior training.

In view of the importance of this issue to the people of Puerto Rico, I would have preferred a solution that placed the decision on whether to close the range in the hands of the President. I believe that this approach would have been more likely to ensure peaceful access to the island for training purposes in the long run. However, the House rejected this approach, and this compromise is the best outcome we could achieve.

Included in the Conference Report Statement of Managers is an excerpt of a letter dated November 29, 2001, from Deputy Secretary Wolfowitz making it clear that the President prefers the approach we have taken in this bill. It reads:

Consistent with the commitments made by both the President and Secretary England, the Navy remains committed to identifying

a suitable alternative and is planning to discontinue training operations on the island of Vieques in May of 2003, contingent upon the identification and establishment of a suitable alternative. However, until a suitable alternative is established, Vieques remains an important element in the training of our forces deploying to fight the war.

This is a strong, balanced bill. It fully funds the \$343.3 billion for national defense requested by the administration. It improves the compensation and quality of life of our forces and their families. It improves the readiness of the military services. It advances the transformation of the military to lighter, more lethal and more capable forces. It improves the capability of the armed forces to meet nontraditional threats, including terrorism and unconventional means of delivering weapons of mass destruction. It improves the efficiency of DOD programs and operations.

Once again, I want to thank Senator WARNER, all the Members of the Senate and House Armed Services Committees, and the staffs of both committees for their long hours of hard work on this legislation. I hope the Senate will join us in passing this bill, sending it to the President for signature, and sending a strong message of support to our military men and women now engaged in a war to defend our freedom and way of life.

I am going to yield the floor at this time. After the Senator from Virginia speaks, perhaps the Senator AKAKA, who has been here a while, can be recognized.

I yield the floor.

Mr. WARNER. Madam President, I want to start by thanking Chairman LEVIN, and his staff under the fine leadership of David Lyles, for the manner in which they conducted this conference. It was a team effort from start to finish, and we have a good product to present to the Senate as a result.

We were all sent here by our constituents to do the people's business, and that we have done. The conference report now before the Senate strengthens the President's hand in the ongoing way on terrorism. This legislation sends a clear signal to all of the men and women in the military—from the newest private to the four-star general—that we are clearly behind them.

With this legislation, we are providing critical funding and legislative authorities to support the men and women defending freedom in Afghanistan and those on station around the world who are safeguarding our liberties and who are prepared to answer the call on a moments notice.

The conference report we are presenting to the Senate today contains \$343.3 billion for defense—an increase of almost 11 percent over last year's level. In addition, this legislation authorizes the defense portion of the \$40 billion emergency supplemental that was proposed by the President to respond to the events of September 11. Of that \$40 billion the Defense Department has received \$13.7 billion from the first \$20

billion increment, and will receive several billion more from the second \$20 billion—the exact amount is still the subject of an ongoing appropriations conference.

As our military is engaged in an all out war against terrorism, the Congress is fulfilling its duty with this legislation by providing the funding needed to successfully conduct that war.

Just 3 weeks ago, I joined Chairman LEVIN in visiting our military men and women who are participating in Operation Enduring Freedom. We visited with forces in Uzbekistan, were privileged to share Thanksgiving dinner with some of our troops in Pakistan and with sailors aboard the USS *Carl Vinson*, from which planes are flying in support of forces in Afghanistan.

Our Nation can be proud of the men and women serving in our Armed Forces. The dedication, professionalism and bravery that is being displayed at any hour of the day or night is extraordinary.

During our trip to the region, we spent time with a Special Forces team of 11 men preparing to deeply into Afghanistan. I was struck by the professionalism, courage and dedication of these soldiers. With imminent danger ahead, their thoughts were of mission, home, family and their uncompromising love of country. They knew they were embarking on a critical mission, and they were ready to go.

I have had the privilege of being associated with the United States military for over a half a century, beginning as a young sailor in the closing days of World War II. I have never seen greater bravery or dedication or commitment in the faces of our soldiers, sailors, airmen and Marines. The support of the Congress and the American people is the only modest recognition they hope for. That, we owe them; that they have, not since the days of world War II has the nation been so united behind the men and women in uniform.

I commend President Bush for his inspiration and leadership. During the nearly 10 weeks of military operations, he has communicated his clear intent, and he has not wavered. The American people are united behind him and behind our military.

It is interesting to note that, less than a year ago, the Bush Administration inherited a proud armed force but one that was showing the effects of a decade of underfunding and over commitment abroad. While U.S. servicemen and women performed their military missions with great dedication and professionalism, military personnel, equipment and infrastructure were increasingly stressed by the effects of the unprecedented number of military deployments over the past decade, combined with years of declining defense spending. This contributed to what General Hugh Shelton, former Chairman of the Joint Chiefs of Staff referred to as the "strategy-resource mismatch."



President Bush is to be commended for the increases he has proposed in defense spending. Prior to September 11, the President recommended increases for Defense for fiscal year 2002 totaling \$38.2 billion. These increases represent an almost 11 percent increase in Defense spending above the fiscal year 2001 amount. The amount for Defense requested by the President in the emergency supplemental totals over \$20 billion. Hopefully that additional amount will be provided as well.

Building on the President's solid proposal for fiscal year 2002, Senator LEVIN and I were able to conclude a conference agreement that is much needed by the military, particularly at this time of conflict when those in uniform and their families are facing all the dangers and unknowns of war. The conferees have stepped up to meet the challenges and to provide our Commander-in-Chief, President Bush, what is needed at this critical time in America's efforts in leading the world against a common enemy—terrorism.

A few days ago, the President returned to the Citadel to address the Corp of Cadets. In his remarks, the President reaffirmed his vision for the armed forces and his plan for defending the blessings of liberty and freedom against those who would seek to destroy them.

The President noted at the Citadel, "If America wavers, the world will lose heart. If America leads, the world will show its courage. America will never waver. America will lead the world to peace."

In this time of war, we must show our support for our military, our President. I thank all Senators who supported the conference report.

Madam President, I will remain on the floor indefinitely. We do wish to accommodate other colleagues. The distinguished Senator from Arizona is present, and at the appropriate time, we will try to accommodate our colleague from Arizona.

I see our colleague from Hawaii. This Senator will be very happy at this time to yield the floor, if he so desires to seek recognition.

Mr. LEVIN. I wonder if the Senator from Hawaii will yield for a moment.

Mr. AKAKA. Yes.

Mr. LEVIN. Madam President, before I leave for a moment, I beg the indulgence of my good friend from Virginia. I have a lot I want to say in a very heartfelt way about my friend from Virginia. We could not have a bill without the partnership we have on that committee. The Senator from West Virginia was very nice in the way he phrased that. I will always remember the way he gave us a bouquet tonight on a bill which he, for his own very strong principles, decided to vote against. I want to let my friend know, though I have to leave for a moment, I will be back to say thank you to the Senator from Virginia and the staffs.

Mr. WARNER. No thanks are necessary. It is my duty. My constituents

sent me, and we will at some point in time resume the colloquy between the chairman and myself. At this time, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Madam President, I rise today to express my support for the conference report to S. 1438, the Department of Defense Authorization Act for fiscal year 2002. I commend Chairman LEVIN, Senator WARNER, and their staff for the tremendous amount of work that has resulted in this conference report. There were many difficult issues to resolve, and I appreciate the persistence of our chairman and ranking member in ensuring the successful outcome of this conference report.

In the area of readiness and management support, the conference report authorizes \$10.5 billion for military construction and family housing programs, an increase of \$528.7 million to the administration's budget request. The report also includes \$36 million for various systems to improve accounting for spare parts inventories and streamline maintenance processes. These are important steps in our efforts to improve the facilities in which our military personnel work and the housing in which they and their families live.

The conference report includes several provisions to improve the management and oversight of the Department of Defense. For example, there is a provision which addresses the Department's inability to produce reliable financial information or auditable financial statements, a long-time concern for myself and a number of my colleagues. The conference report also provides for improved management and greater competition for the \$50 billion of service contracts awarded by the Department of Defense each year.

While I am disappointed with the reductions that were made in the operations and maintenance accounts, I remain committed to focusing our efforts towards ensuring the readiness of our military services. I believe further advances in sustainment, restoration and equipment maintenance are possible, in particular increasing attention to corrosion prevention technologies and products. As I know from the military facilities in Hawaii and elsewhere in the Pacific, maintaining military equipment and facilities in wet, salty, and hot environments is a significant challenge. The conference report authorizes \$27 million for equipment and testing to prevent the corrosion of military equipment. I look forward to continuing to address the issue of corrosion in the future as its impact on readiness is significant.

I am pleased to note that the conference report includes an event-driven implementation of the Navy-Marine Corps Intranet to ensure that the program is fully tested and proven as it is introduced into the Navy and Marine field units.

I also want to highlight the provision in the conference report which directs

the Department of Defense to develop a comprehensive plan for addressing environmental problems caused by unexploded ordnance on current and former military facilities. I believe this is very important as we continue to address the issue of encroachment and its impacts on readiness and training.

While we have more work to do to ensure the readiness and training of our military, the conference report is a significant step forward. I join my colleagues in supporting this important legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Madam President, I rise in support of the Defense authorization bill and commend Senator LEVIN and Senator WARNER for their great efforts. They have crafted a bill that will provide materiel assistance and support to the men and women of our Armed Forces.

This bill includes, among other things, a targeted pay raise for our military, authority for military personnel to transfer unused Montgomery GI bill benefits to their dependents. This was a particular concern of Senator CLELAND, and he should receive particular commendation for his unfailing efforts over several years to get this provision enacted into law. Today it is part of the law.

In addition, this legislation will include a base closure round for the year 2005, which is something very important, although very controversial. It is important to move from a cold war infrastructure to a post-cold-war infrastructure, as we have done with our personnel and force structure, and this legislation will do that.

However, today this conference report has been overshadowed by the President's announcement that he proposes to withdraw from the Anti-Ballistic Missile Treaty. As chairman of the Strategic Subcommittee, I spent long hours examining and looking very closely at the administration's plans for missile defense.

I worked closely with all my colleagues, particularly the ranking member, Senator ALLARD of Colorado. We may have disagreed on issues, but we worked together to try to ensure all the information was available to our colleagues.

I believe the legislation we proposed in committee represented a sound balancing of the need to develop particularly theater missile defense but also to develop national missile defense. It did so cognizant of the fact that to deploy such a national missile defense would be violative of the ABM Treaty and would be a threat to very delicate arms control agreements that have evolved over decades.

Our legislation was brought to this floor in the wake of September 11, and in the need, in a very real sense, to provide a rallying point of consensus rather than an opportunity for further debate, our legislation, which reduced the

appropriations for national defense by \$1.3 billion, was modified significantly to give the President the option to apply this \$1.3 billion to ballistic missile defense or to counterterrorism. I believe as we look very carefully and very closely at the threats we face today, the terrorism effect is more immediate and more central to our concerns of this moment. I hope the President will take that opportunity to apply those resources at \$1.3 billion to counterterrorism.

Today, the President's announcement has been greeted by different opinions in different venues. My impression is that his announcement is both unwarranted and unwise. It is unwarranted because we are far away from the time that we have the technology to effectively deploy a national missile defense. It is also many years before I sense that we need to conduct tests that would be violative of the ABM Treaty. It is unwise because I think we are jeopardizing our relationship with Russia. Although their immediate response might be muted in some respects, what we will see is less than enthusiastic cooperation on a whole spectrum of cooperative efforts on which we need their help and assistance, from antiterrorism to the securing of their nuclear materials, to the securing of their biological materials. In this sense, it represents a departure from an endeavor over many decades, to erect a regime of arms control together with the keen awareness of our relationship with Russia.

I believe we have plenty of time to develop, and should develop, an adequate system and then face the decision of deployment and the decision of the treaty perhaps years from now. In October, Secretary Rumsfeld suggested there were four potential tests that would violate the treaty. As a result, he was canceling those tests. I think in fact that might have been a situation where those tests easily could have been postponed and therefore the decision could have been easily deferred with respect to the treaty.

One of the activities in question, for example, was the use of an Aegis ship radar to observe a missile defense test, clearly in violation of the ABM Treaty. The problem is the development of a sea-based missile defense system is at least a decade away. As a result, to rush forward and try at this point to insert a test of that nature suggests to me there was more interest in bumping up, as they say, against the treaty rather than bringing to the field a system that will work.

The system that is the most advanced is the land based national missile defense system. Indeed, this system, too, has plenty of room for further research and development before it is necessary to go ahead and call into question the ABM Treaty.

The President today called the ABM Treaty a relic, a vestige of the cold war. The dynamics of world powers have definitely changed. But the re-

ality is clear that nuclear weapons still are present in the world, they still must be contained, their use prevented—we hope. In this respect, we still have a need for a structured arms control regime, a structure that I think will not be aided by the abandonment today by this administration of the ABM Treaty.

Now, there is encouraging news. There is news that the Russians and the United States may, either through treaty or by unilateral decision, reduce their warheads. That would be progress.

But I do believe we are sending a signal not just to the Russians but to the rest of the world that the United States is stepping back from multilateral treaties and bilateral treaties which will further the cause of arms control. That will set not only the wrong tone but indeed perhaps the wrong direction.

The other aspect of this unilateral approach is the fact that it may not provoke an immediate and demonstrable adverse reaction from Russia, but as I said before, it will inhibit the kind of full-fledged cooperation that we need to address the more immediate threat of terrorism. We recognize today that Russian assistance in many ways has helped immensely in our struggle in Afghanistan. The use of their intelligence sources and the fact that they have, in an economic sense, continued to produce petroleum so that energy prices remain low are examples of their cooperative efforts.

I ask whether or not, given our unilateral withdrawal, given our unwillingness to continue a dialogue with respect to treaty modifications, would essentially undercut other areas of cooperation that, I argue, also are extremely necessary.

The proliferation of nuclear materials, the presence of vast stocks of biologic materials—all of these within Russia and all of these with questionable security mechanisms—raise a profound issue of our security. This afternoon in our committee we had a hearing with respect to the control of our nuclear weapons, and we have elaborate procedures, expensive procedures. I suggest the Russians probably do not match us with those procedures but they should. That is an example of cooperation we have to undertake immediately, cooperation that might be undercut.

China has expressed concern—another area we have to consider—in terms of their ability to deploy more missiles, to provide more sophisticated warheads with more penetrating aids, with more decoys, those things that will make the world less stable, the nuclear balance less stable.

I believe we have, today, taken the wrong path. Rather than continuing to work for a structure of arms control agreements, we have turned away from that structure. I hope the President not only recognizes perhaps the arguments we are making this evening, but

truly works to reach out to try to develop more cooperative efforts with Russia that are to our mutual advantage; also, that we would recognize we still have an obligation to develop a structure of arms control agreements that will make the world safer.

The decision today to withdraw is, again, in my view, unwarranted by the circumstances and unwise. I believe in the long run it will not aid materially our security.

I hope the provisions we have included in this legislation that provide for overview of the Ballistic Missile Defense Program, that provide the option to use funds not only for ballistic missile defense but for counterterrorism, will be used by the administration to pursue those aspects of counterterrorism and also a prudent development program for ballistic missile defense.

I yield the floor.

The PRESIDING OFFICER (Mrs. LINCOLN). The Senator from Virginia.

Mr. WARNER. Our good friend from Rhode Island is a valued member of our committee, very hard working, very industrious. I expect it will be that situation for an indefinite period as the years roll by. He had a distinguished military career himself, a graduate of West Point.

But I do have a few differences of view. And my good friend, the chairman, utilized these same key phrases I keep hearing. That is, we have a greater threat to our Nation from trucks, ships, or an airline that might bring in a missile or some type of nuclear device. We are putting so much money on missile defense at the time "when it is the least likely means of delivery."

I say to my friend, I listened carefully, but you don't rule out the possibility that someone could fire in anger but a single missile.

That is the fallacy that I find in this argument. They do not rule out, they do not address the possibility, that but a single missile would come in and in all probability that missile would cause devastation far greater than a device that perhaps was conveyed by a truck or otherwise.

So I think I just cannot accept the arguments, that concept of the "least likely" would deter this President or any President from proceeding toward a system to protect us against an attack by a limited number of missiles. That is all this President has asked repeatedly in his short term since he has been President. That is what he is asking. I hope Congress eventually delivers on that request by our President.

Then there is a second argument; that is, suppose a nation possessed nuclear weapons which potentially they could use against us. They might not fire the weapon. But as our President might be deploying our forces to a region of the world, perhaps not unlike what we are doing in Afghanistan with a coalition of other nations, the threat could come. If you deploy a single member of the Armed Forces of the

United States in an effort to deter or, indeed, engage an enemy on a foreign land, which enemy is acting against an ally or friendly country or in any way inimical to the cause of freedom, that missile could be used as a threat against our President. A single missile could make a dramatic change in the ability of a President, as Commander in Chief of our Armed Forces, to make a decision on a deployment.

So perhaps at some point those Senators who have spoken against this could answer the two questions that I leave pending at this point.

The PRESIDING OFFICER. Who yields time to the Senator from Alabama?

Mr. WARNER. I yield such time as our distinguished colleague from Alabama desires.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. I thank the Chair and I thank Senator WARNER for yielding time to me. It has been a tremendous experience for me to serve on the Armed Services Committee—over 3 years now, under the leadership of Senator WARNER and now Senator LEVIN. It has been a pleasure to watch how the committee operates. On occasion, we have disagreements, but the committee works with such good grace and harmony and a generalized interest in what is best for America that I think it has been a good example for other committees.

Senator LEVIN, I thank you for your consistent courtesy, your brilliant leadership; and Senator WARNER, thank you for your leadership on this bill and in the past as chairman of the committee, now as ranking member.

I am generally very pleased with this legislation. Essentially, as I see it, we had about a \$30 billion increase in expenditures planned in our budget item as we came forward this year over last year in actual appropriations dollars. Then we had a supplemental. Then we had the \$20 billion supplemental that we passed after September 11. We are looking at a pretty significant increase in defense spending. Some of that, of course, is going to homeland defense that we were not expecting to spend just a few months ago, but essentially we have a nice increase in defense.

Our fundamental problem has been, as one of President Clinton's service secretaries said, we are in a death spiral in many aspects of our defense because we are carrying equipment—aircraft, ships, military vehicles—that are so old, it costs more to operate and maintain than is really justified. We really need to leap forward to a new generation of equipment, but we do not have the money to do that, and it is draining us in a lot of different ways.

But we made some progress this year and last year, with great pay raises, or at least significantly above the inflation rate for our men and women in uniform, trying to make sure they know we affirm them and the service they are rendering. We did that prior

to September 11, and I think there is an even stronger feeling in America today of appreciation for our men and women in uniform and a respect for the job they do.

I feel pretty good about where we are going. We know the Army needs to transform itself. That is not an inexpensive process. We have not given it enough money to transform itself. For each year that I have been on the Armed Services Committee, we have been talking about the challenge, making sure the Army is capable of doing basically the very kind of things we are doing in Afghanistan today. We configured that Army to meet the Soviet Union and their vast capability and large standing Army and heavy equipment that they had, to confront them on the plains of Europe. But we do not have that threat in the same degree today that we did then.

So everybody who has given serious thought to the situation knows we ought to be moving toward an Army that can respond to the various kinds of threats we are likely to be seeing in the world today. If we can do that, we would have served our country well.

I do not think we have traveled far enough down that road, frankly. It has been impressive, however, to see that we continue to modernize, continue to exploit the technological advantage this country has in the world, and our ability to project power in a systematic way. I believe our modernization has caused the least possible damage to the defense related industrial sectors of this Nation in the process, and our ability to encourage innovation in these sectors while being smarter with our funding has increased dramatically.

It has been an extraordinary effort that is being carried on in Afghanistan. It points out anew that we need to continue that transformation. We need to continue to bring on aircraft that is unmanned in larger numbers, to continue to improve our smart bombs, smart missile capability, and to do it in a way that is most effective in different types of conflicts into which we might be entering.

I believe this bill has progressed in those areas, for which I am very delighted. One of the issues that we did have a dispute about and debate about in the committee was what to do about an anti-ballistic missile system in our country. I have been a real strong believer that this country needs a ballistic missile defense system, that we have dawdled too long, and it is time to move forward.

This Congress voted 94-to-3 to deploy an anti-ballistic missile system as soon as technologically feasible several years ago. President Clinton signed that legislation. I thought that pretty much settled it.

But we have had a good bit of debate since. President Clinton put in \$5 billion for ballistic missile defense this year in his budget request before he left office. Under President Bush, that

figure was raised \$3 billion, to \$8 billion.

That is an increase he felt very strongly about. That was an increase that reflected an interest of his that was very important. He campaigned on it. He said he wanted to do it. He has suggested ever since he was elected, and even before he was elected, that we ought to either negotiate a new treaty with Russia, or we ought to take advantage of the provisions in the treaty that allows him to get out of the treaty. Today I am pleased to see that he made the decision to remove the United States from that treaty.

Let me share a few things about this that I think are very important. We signed a treaty with the Soviet Union in 1972, with an "evil empire" that no longer exists. We now have a healthy, positive, growing, developing relationship with Russia—a country with which we want to continue to grow and develop our relationship. That old treaty in 1972 was no foundation for a relationship. The treaty only dealt with an ABM system. It only prohibited both countries from establishing an ABM system. It didn't develop a relationship of any significance between the countries. It was only a few pages. It only dealt exclusively with the details of prohibiting us from developing a ballistic missile defense and the Soviet Union from building one. It was a good idea at the time. Nobody had missiles but the United States and Russia, and perhaps our allies in Europe. We didn't feel threats from anyone but each other.

We had mutual assured destruction. So we agreed that neither country would expend billions of dollars to develop a system that really wouldn't be effective against the massive amount of missiles that each country had.

But now something has changed. Other nations have missiles. Lots of other nations have missiles. And they are buying more on the market today. We know the story of North Korea. We know about Iran's effort. We know other countries are expanding their ability to develop ballistic missile systems.

Thus, I think that leaves us in a vulnerable position. We are in an ironic position, if you think about it, by prohibiting this Nation from building a missile defense system to protect us from other hostile nations on the basis of a treaty from 1972 with a nation that no longer exists.

I don't believe Russia has any right—certainly no moral right and no legal right—to ask the United States to keep itself, as Henry Kissinger said, vulnerable to attack because of that old treaty. They have no right under the generally recognized rules of international relations to ask a nation to leave itself vulnerable to serious attack because of this old treaty.

The President said he wants a new relationship with Russia. We are going to move forward, with a great new future between us. But I am not going to

sit here and allow these United States to be vulnerable to attack from Korea, Iran, or any other nation that may acquire a nuclear missile and leave our people subject to attack.

As Senator WARNER said, it is a real problem, because a President may be eyeball to eyeball with some smaller nation and that nation may have a missile capable of hitting Los Angeles, New York, or Miami. They say: Mr. President, you move against us like you moved against Afghanistan and like you moved against Iraq—let us say that Iraq had one of these missiles, or half a dozen that could reach the United States and Mr. Saddam Hussein said, Mr. President, you move against us; I am launching my missiles immediately. Do not move against us. We don't want the President to be in that position, knowing he has no defense whatsoever against that kind of attack when we have the capability of building a defense to that attack.

I think we have made some great progress. I salute President Bush. I salute his National Security Adviser, Condoleezza Rice, who from the beginning of this administration has understood quite clearly the importance of moving beyond the ABM Treaty to a new relationship with Russia, but at the same time protecting us from attack from who knows what may occur in the years to come.

The bipartisan commission that was chaired by now-Secretary of Defense Rumsfeld concluded we would be vulnerable to that kind of attack by 2005. To have a national missile defense system in place by 2005, you have to get started on it. We may have ups and downs as we go forward.

But this movement by the President is in the right direction. We are moving away from this old relationship with Russia to a new relationship. We are now going to be able to build a missile defense system that is the best effective defense of America without having to configure it, to manipulate it to fit within this treaty's limitations. They were trying to develop a system that would fit within the very strict confines of this treaty.

I don't believe that was wise. It would be more costly. The system would be less effective than otherwise would be the case.

We are doing the right thing by withdrawing from the ABM treaty. We are doing the right thing in following President Bush's suggestion that we increase spending for ballistic missile defense system.

As I indicated, we have about \$60 billion in increased defense spending this year. President Bush simply asked for \$3 billion more than did President Clinton. That is not going to break the bank.

Don't let anybody tell you that by building a national missile defense system we don't have money to transform the Army, or we don't have money to buy high-tech weaponry, or we don't have money to do other things. In the

scheme of things, this extra \$3 billion is not the back breaker to any one program when we have a \$330-plus billion defense budget.

Also, I am pleased to see one of the finest Senators on the floor, Senator COCHRAN. It was his legislation, I believe with Senator LIEBERMAN, that we passed overwhelmingly in this body 97-to-3 to deploy a national missile defense system as soon as was technologically feasible. He led that effort. He was ahead of his time.

I am sure he has every right to feel today that through that effort our Nation is moving on to a new day, geared more to the real threats that we face. I was pleased to support him in that effort, and Senator LIEBERMAN. They were on the right track.

I believe the President has shown consistent courage throughout this effort. There were a lot of people who said the Europeans are not going to go for this, the Senate is not going to go for this, and the Russians are not going to go for this.

I know the Russians knew we wanted to get out of the treaty, but they know it does not threaten them for us to get out of this treaty. They would like to see us maybe make some concessions on some other arrangements in order to justify them giving up a little here. I will not call it extortion, but they are trying to deal with us on this issue.

I am glad the President worked with them openly. He worked with this Congress openly. He worked with the American people openly. He campaigned on a national missile defense system. He has never waffled on it. President Clinton's was an unwise policy of claiming that he really wasn't building a national missile defense system, but just doing some research on it. We were testing it and doing things that were leading to the point where we were actually in violation of the treaty. A good lawyer could assert that.

President Bush has been honest from day 1. He said we have to get out of this treaty. We can't keep on being clever and manipulative about the wording of it while intending to build a national missile defense system. The treaty prohibits the building of a national missile defense system. If it says anything at all, it says you cannot build a national missile defense system.

The President's policy and the Congress' policy was to build a national missile defense system. So we couldn't play games forever with this treaty. It was time to put it out on the table. I salute him for biting the bullet on it. I believe it is the right step forward. I am hopeful that it will result in improving our ability to act in the world, giving the President some confidence that he does not have to be worried every minute that some missile might, by accident, be launched, or some small rogue nation might launch an attack on us.

Again, I salute our leaders, Senator LEVIN and Senator WARNER, and all the

members of the committee for their hard work. We made some real progress this year. I hope that we can continue it next year. If we have a disciplined, longtime approach to our defense spending, we can recapitalize the military, we can transform the Army, we can continue the high-tech improvements in our Air Force, Navy and Marine forces and armaments, and make sure we are always ahead of the game.

We never want our men and women in combat fighting on behalf of the United States of America put in the same position that those soldiers of Iraq were in when they were being attacked on the road as they were retreating out of Kuwait. That is the kind of thing that this Nation must never allow to happen.

I believe we are doing the right things. We could use some more spending, but we are making progress. I am pleased to support this bill, and I thank our leadership for bringing it to pass.

I yield the floor.

Several Senators addressed the Chair.

Mr. WARNER. If the Senator will yield, I wish to thank our colleague from Alabama. He is a very valued member of our committee. I say to the Senator, we thank you very much for your work throughout this year to make this bill possible and for your very thoughtful comments about the chairman and myself.

Madam President, I yield such time to the distinguished Senator from Mississippi as he so desires.

Mr. LEVIN. Will the Senator from Mississippi yield for just 30 seconds?

Mr. COCHRAN. I am happy to yield to the Senator from Michigan.

Mr. LEVIN. I also thank our friend from Alabama for making a major contribution as the ranking member on the Seapower Subcommittee. We thank him for that effort. We thank him for his kind remarks in this Chamber. We have a very fundamental disagreement as to the way in which the ABM Treaty has been unilaterally withdrawn from, but that has not stopped us from having a very cordial, collegial relationship, or me thanking him for that contribution he makes to our committee. I thank the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam President, let me first thank the distinguished Senator from Virginia for yielding time to me on this conference report. And I commend the Senator from Alabama for his excellent, persuasive statement in support of the President's actions that he announced he was taking today to give notice that under the Anti-Ballistic Missile Treaty of 1972, the United States was withdrawing from that treaty. It took a lot of courage for the President to announce that today.

It has taken a lot of insight and hard work for the Senator from Alabama to rise to the position of leadership that he has in the Senate, on not only an

issue such as missile defense but on the wide range of issues that come before the Armed Services Committee on which he has served so effectively, and in a way that has reflected great credit on the Senate and on the State of Alabama.

I appreciate the kind remarks he has made about my efforts on the National Missile Defense Act of 1999, to which he referred in his remarks. There were a lot of people, a lot of Senators personally and actively involved in that effort. He was one of them. He was right at the forefront of the effort to convince the Senate we needed to pass that legislation, that we needed to state it as a matter of national policy and have it in a statute that it is the policy of the United States to deploy a missile defense system that will protect the United States, the territory of the United States, and the citizens of the United States from ballistic missile attack. And that is on the books.

This committee has also provided leadership in ensuring that authorities were given under this bill to the President to proceed to carry out that policy.

We have, in this conference report, \$8.3 billion that is authorized for use by the administration to develop, to conduct research, to test in the missile defense programs that are underway now, to achieve the goals of not only the National Missile Defense Act of 1999 but the other responsibilities that the Commander in Chief has to protect deployed forces around the world from theater missile attack. They are already in the hands of adversaries around the world—Scud missiles other advanced missile systems—that threaten American forces that are deployed around the world.

We are at the point now of actually putting in the field defenses against these ballistic missiles. These are shorter range missiles. They are not ICBMs, and they do not travel as fast as ICBMs. But the Army has this program, the Theater High Altitude Area Defense. The acronym is THAAD, but it is not named for me.

The point I am making about that program is that it has been proven effective. It works. The tests have been phenomenally successful. There have been a series of tests with a missile hitting a missile to defend against and knock down an attack from these missile systems that would threaten our forces in the field. Those programs have proven that the defense against missiles is possible by using interceptor missiles to knock them down.

We were heartened just recently when a missile was fired from Vandenberg Air Force Base and intercepted from Kwajalein. We saw that effectively tested so that the missile hit its target, traveling at high rates of speed, way up in the atmosphere. It is phenomenal what the research scientists have been able to accomplish in this area.

When President Bush was running for President, he told the American people,

as Senator SESSIONS pointed out, that he was in favor of developing and deploying a national missile defense system. He acknowledged there was an impediment to doing that, and that impediment was a treaty the United States entered into in 1972 with the Soviet Union, saying that neither would deploy a national missile defense system, except in one case: to protect a civilian population center or to protect an offensive capability. Those are the missiles that could be launched against the other side.

The United States decided to deploy an ABM system back then. And the Senate grudgingly approved it. It was in the process of being deployed, and they changed their mind and withdrew the authority for actual deployment of an ABM system that would protect our silos and missiles in the Dakotas. That is what we were going to protect.

The Russians, on the other hand, decided to deploy their system that was legal under the treaty to protect Moscow. And that system is still in place. People wonder: Why would you want to deploy an ABM system. Well, Russia did. Russia deployed the system, and they still have it. It is still there. So they must think they have an effective, workable missile defense system in place.

So those who wonder whether it is possible to have a system that is workable and effective, look at that example, and look at theater missile systems that we have deployed, that we are deploying, and we have tested effectively, and then the series of tests for the system that has been under development here in the United States.

So what I want to do is simply point out how important the decision is to our national security interests that the President has made. By ending the participation of the United States in this obsolete agreement—the ABM Treaty—President Bush has removed one of the central obstacles to ensuring the security of our homeland.

The President's actions come as no surprise. It should not surprise anyone either in the United States or our friends and allies around the world. At the beginning of his election campaign, President Bush made clear that he was determined to defend the United States from the threat of ballistic missile attack and that it was his belief that the ABM Treaty posed an unacceptable obstacle to doing this.

So with this action, the President is doing what he said he would do if it was necessary. He has made every effort to explain his views and his intentions to Russian leadership and to outline his plans for our friends and other allies around the world.

Since taking office, he and his senior officials have missed no opportunity to engage their Russian counterparts on the subject of missile defense. They have labored to convey the President's commitment to defending this Nation, the urgency of the threat, and the pressing need to move beyond the ABM Treaty.

Over this past year, the issue has been discussed frequently at the highest levels of the United States and Russian Governments. The Government of Russia has refused to cooperate in an effort to reconcile new security needs with this outdated treaty. Therefore, the President has been given little choice but to proceed as he has. He deserves great credit not only for his determination to defend our country but for his patience in attempting to resolve this disagreement by arriving at a new mutually satisfactory arrangement with Russia.

Much work remains to be done though. We have to determine which technologies are most effective, and we have to produce and deploy them. This work must be pursued with a sense of urgency.

For the first time in 30 years, the United States will be able to develop and field the best technology available to protect our citizens from missile attack, instead of being artificially constrained by an outdated and counterproductive arms control agreement. America's scientists, engineers, and policymakers will finally be free to work toward a missile defense that responds to the threat, rather than fear of violating an outdated set of rules that prohibited testing of new technologies.

Some have predicted the sky will fall if the United States exercises its right to withdraw from this agreement and that the relationship between the United States and Russia will suffer irreparable harm from such an action. Some surely will be renewing such claims. Some have today, and in the days ahead we will hear these remarks. But before becoming overwrought, it might be helpful to note what the President of Russia said about this during his recent visit to the United States. Asked about the conflict between the United States and Russia over the ABM Treaty, President Putin said this:

Given the nature of the relationship between the United States and Russia, one can rest assured that whatever final solution is found, it will not threaten or put to threat the interests of both of our countries and of the world.

On September 11, ironically, the deputy chief of the Russian General Staff, Gen. Yuri Baluyevsky, said this:

I can assure you that our relations will be continuing regardless of whether the U.S. withdraws from the ABM treaty or not. [It] will not affect these relations of trust.

President Bush has successfully moved us beyond the cold war. He has made it clear that he will not tolerate a relationship between our two nations whose most fundamental basis is the threat of mutual annihilation and whose currency is fear, suspicion, and mistrust. The President has said he wants a new relationship with Russia, not one marked by the deadly themes of a dangerous and bygone era. His decision to leave the ABM Treaty is a significant step in building that new

relationship, and the words of President Putin make it equally clear that Russia also wants a new relationship with the United States.

The debate over whether the United States should remain in the ABM Treaty is now over. As we move forward with the development and testing of missile defense programs, we should support our President and help him implement this important element of our homeland security.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I commend our distinguished colleague from Mississippi. I was the author of the Missile Defense Act of 1991. He was the author of the Missile Defense Act of 1999. We came to the Senate together, my distinguished colleague from Mississippi one number senior to me in this institution. I am always very respectful of that.

I wonder if I might engage my colleague and suggest he delivered his remarks with such eloquence and such authority that those who may not have followed this issue as closely as he and I and others don't realize that the ABM Treaty wouldn't let us utilize our developing technology in space. We couldn't build any part of the system up in space. We couldn't build any part of the system on the sea, incorporating the use of the U.S. Navy as platforms. Those are the things that our President took into consideration. We have one of the finest navies in the world. The American taxpayers have put enormous sums of money into that Navy. Yet we cannot use a single ship for that purpose.

I wonder if the Senator would detail some of the things that the ABM Treaty blocked which have now enabled our President and our Nation to move forward and utilize that technology. I remember in this debate years ago I used to explain that it would be more efficient, quicker, and less costly to the taxpayer to utilize these options which now finally are going to be on the table in 6 months.

I thank my friend.

Mr. COCHRAN. Madam President, if the Senator will yield for a response, I appreciate very much his kind remarks about my efforts on this issue.

He is absolutely correct. The effect of the ABM Treaty has been to deny the United States the legal right to test technologies, not only radars that are aboard ships, such as the Aegis fire control system radar, but also space-based elements such as sensors that could assist in making sure the system was effective, that it was workable, and that it did what we hoped it would do, and that was knock an incoming missile down before it struck the United States.

Just recently, as an example, Secretary Rumsfeld announced that some tests that had been planned on this program development schedule were being canceled because to undertake the tests as planned and as needed for this system would violate the terms

and the understanding we have had with Russia since the treaty was ratified, the ABM Treaty. There were demarcation agreements that were agreed to in the Clinton administration that limited the testing programs we were undertaking. All of that now is set aside.

When the notice the President gives becomes effective, the notice of intent to withdraw, we will then be able to resume tests that had previously been scheduled that we couldn't undertake without violating the treaty. The President was forthright and honest about it. He wasn't trying to hide our violations or get away with something that was prohibited under the treaty. He was acknowledging that he couldn't proceed because he didn't want to violate the treaty. He didn't want to break the law. And treaties have the force and effect of law.

The Senator from Virginia is absolutely correct in the effect that that treaty was having on our ability to proceed as we had authorized, as we had planned, in conformity with a policy that had been adopted by the Congress and signed by the previous President.

His leadership and the efforts of Senator LEVIN, too, in helping to ensure that this conference report contains authorities and authorization for appropriations that will help us defend our homeland security are things for which we should all express our appreciation. I do that tonight with great thanks.

Mr. WARNER. Madam President, just one further comment: Understandably, there are those who disagree with the President, and they have accused him of a violation, but the Senator has correctly pointed out, the President was faced with, Do I move forward and break the law or do I comply with the terms of the treaty which are explicit? He gave notice of withdrawal in 6 months. He chose to stay within the terms of the treaty, and he in no way violated the law. Am I not correct?

Mr. COCHRAN. The Senator is absolutely correct in pointing that out. That is another mark of the strong leadership the President has provided on this issue. He has made everybody understand what the real problems were and why this treaty was outdated, why we needed to move beyond, why it was a relic of the cold war. And given the threats as they are emerging and exist today, we couldn't be safe confronting the new emerging missile capabilities from many countries all around the world.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Michigan.

Mr. LEVIN. Madam President, let me very briefly say to my good friend from Mississippi, we have debated the question of whether or not this country should unilaterally withdraw from the ABM Treaty and whether that would make us more or less secure probably on half a dozen occasions. I have al-

ways enjoyed those debates. We have always enjoyed each other's company, even though we are on different sides of that issue. It has been my feeling—and I have expressed it in a statement today and on the floor earlier tonight—that we will be less secure as a result of unilaterally withdrawing from an arms control treaty. It is going to unleash negative forces, measures, countermeasures. We are going to find, I am afraid, in my judgment, that we are going to have a dangerous action/reaction cycle which is going to be precipitated. Defensive technologies are going to make us less secure because of the effort of other countries to overcome those technologies. We are going to have to try to overcome their efforts. We have debated that many times. The President has unilaterally given notice, and we are not going to have too many more of these debates. We will miss them because we have had fun doing this together.

Nonetheless, that is where we are. I think everybody agrees that the security of this Nation comes first. If I thought for 1 minute that withdrawing from this treaty unilaterally would make us more secure, I would recommend that we withdraw from this treaty. I think it leaves us less secure. If I thought it would make us more secure, I would not hesitate. I think everybody here has the goal to make us more secure.

We have had differences, also, on the Missile Defense Act of 1999. The good Senator from Mississippi quotes section 1 of that act. There were two sections to that act, which I always point out. Nonetheless, we are now past that point.

I wish to very briefly take up other parts of this bill, including one in which Senator REID has been so involved. I want to get to that point immediately because he is in the Chamber now. I want to pay tribute to the effort he has made to try to end what is a real unfairness in our law. The unfairness is that our disabled veterans are not permitted to receive both retired pay and VA disability compensation. This is something that is unique to our veterans—that they are not able to receive both the retired pay plus the disability compensation, which they have been awarded. It sounds unusual to say one is "awarded" compensation for disability.

We had a provision in the Senate bill to address this inequity. We would have allowed our disabled veterans, as others in the Federal Government employ and others in society, to receive both retirement and disability pay. The House leadership was not willing to have a vote on the budget point of order, which would have been made, which would have authorized this benefit to be paid. So we were left with no alternative.

Senator WARNER and I were both there in conference, day after day. We pointed out that Senator Harry Reid has been a champion on this, and there



are others in this body who have pointed out the inequity in the provision that prohibits the receipt of both retired pay and disability compensation.

At the end, we could not persuade the House to include this provision and have a point of order contested in the House. So what we ended up with was something a lot less than what we hoped we would get, and that is the authorization for these payments to be made, the authorization to end the unfairness, but it would still require an appropriation in order to fund them.

Mr. REID. Will the Senator yield for a question?

Mr. LEVIN. Yes.

Mr. REID. Madam President, I basically want to spread across the RECORD of this Senate my appreciation to the chairman and ranking member for the advocacy on behalf of the American veterans regarding this issue. This is basic fairness. Why should somebody retired from the military, who has a disability pension from the U.S. military, not be able to draw both? If that person retired from the Department of Energy, he could do both.

We have debated this, and there is overwhelming support from the Senate. It is late at night, but I want the RECORD to be spread with the fact that I deeply appreciate, as do the veterans, your advocacy. I want the RECORD to also be very clear that the Senate of the United States has stood up for this. The House refused to go along with us.

Also, I feel some sadness in my heart because we are going to come back and do this next year. Sadly, next year there are going to be about 500,000 less World War II veterans. They are dying at the rate of about 1,000 a day. So people who deserve this and would be getting this during this next year will not because the average age of World War II veterans is about 79 years now. So there is some heaviness in my heart.

We are going to continue with this. I don't want anybody in the House of Representatives to run and hide because there is no place to hide. This was killed by the House. For the third time, I appreciate Senator LEVIN and Senator WARNER.

So although I support the conference report for H.R. 3338, the National Defense Authorization Act for Fiscal Year 2002, I feel a sense of disappointment.

Once again this year, the conference report failed to include a provision on an issue that I have been passionately working on for the last couple of years. Namely, the concurrent receipt of military retired pay and VA disability compensation.

Unbelievably, military retirees are the only group of federal retirees who must waive retirement pay in order to receive VA disability compensation.

Put simply, if a veteran refuses to give up their retirement pay, the veteran must forfeit their disability benefits.

My provision addresses this 110-year-old injustice against over 560 thousand of our nation's veterans.

It is sad that 300–400 thousand veterans die every year. I repeat: 300,000–400,000 veterans die every year. They will never be paid the debt owed by America to its disabled veterans.

To correct this injustice, on January 24th of this year, I introduced S. 170, the Retired Pay Restoration Act of 2001.

My bill embodies a provision that permits retired members of the Armed Forces who have a service connected disability to receive military retirement pay while also receiving veterans' disability compensation.

The list of 75 cosponsors clearly illustrates bipartisan support for this provision in the Senate.

My legislation is very similar to H.R. 303, which has 378 cosponsors in the House. I'm thankful to Congressman BILIRAKIS, who has been a vocal advocate for concurrent receipt in the House for over fifteen years.

My legislation is supported by numerous veterans' service organizations, including the Military Coalition, the National Military/Veterans Alliance, the American Legion, the Disabled American Veterans, the Veterans of Foreign Wars, the Paralyzed Veterans of America and the Uniformed Services Disabled Retirees.

In October, I introduced an amendment identical to S. 170 for the Senate Defense Authorization bill. The Senate adopted my amendment by unanimous consent.

Unfortunately, the House chose not to appropriate funds for this important measure.

This meant that the fate of my amendment would be decided in a "faceless" conference committee.

It pains me deeply to see that my amendment was removed in conference.

This is an old game played in Congress in which members vote for an amendment to help veterans, knowing full well the amendment will be removed at a later time.

When will decency replace diplomacy and politics when it comes to the treatment of America's veterans.

Why won't members of the House of Representatives join their Senate colleagues and right this wrong?

Why can't we do our duty and let disabled veterans receive compensation for their years of service and disability compensation for their injuries?

We gather at a solemn moment in the history of our great Nation.

On September 11th, terrorists landed a murderous blow against the World Trade Center and the Pentagon.

Right away, we saw the men and women of our Armed Forces placed on the highest level of alert. American troops then deployed to the center of the storm, set to strike against the enemies of all civilized people.

Our Nation is once again calling upon the members of the U.S. Armed Forces to defend democracy and freedom. They will be called upon to confront the specter of worldwide terrorism.

They will be called upon to make sacrifices.

In some tragic cases, they will be seriously injured or even die.

Most believe that a grateful government meets all the needs of its veterans, no questions asked.

I am sad to say this is not the case today.

I will continue this fight until we correct this injustice once and for all.

Mr. LEVIN. I thank Senator REID. He has been a champion of this cause. He has fought harder than anybody I know to end this inequity. The House leadership simply would not go along with this. We had a choice: We would either have a bill or no bill. That is what this finally came down to.

I believe Senator REID got something like 75 cosponsors for his provision. The Senate overwhelmingly supported this provision. I hope we have better luck next year in the House.

In the meantime, what we have done is we have authorized this, and perhaps our Appropriations Committee will be able to find the means to fund this. But until next year, I am afraid the number of veterans you have pointed out—perhaps 1,000 a day—will not get the benefits they deserve.

Mr. REID. I am on the Appropriations Committee. I will work toward that. I do want the RECORD to reflect my overwhelming support for this legislation. I feel badly this provision is not in it, but this is a fine piece of legislation on which the two of you have worked so hard.

Mr. WARNER. I also thank my distinguished colleague, Senator REID, for his leadership on this issue. We speak of a disabled veteran. I have had a lifetime of association with the men and women in the U.S. military. In my military career, I was not a combat veteran. But I served with many who have lost arms, legs, and lives. Those individuals, when they go into combat and lose their limbs, or suffer injuries, are somewhat reduced in their capacity to compete in the marketplace for jobs and do all of the things they would like to do as a father with their children and their families.

I take this very personally. I feel that some day the three of us—and indeed I think this Chamber strongly supports it—will overcome and get this legislation through. I thank the Senator for his leadership. He is right that the World War II veterans have died at a 1,000, 1,200, sometimes 1,400 a day, and many of those are being penalized by this particular law. So I thank the Senator and I thank my chairman. We shall renew our effort early next year.

Mr. LEVIN. I want to say one thing publicly. I want to again thank Senator WARNER. As he often points out, we came at the same time to this body. I have been blessed by having him as a partner and a ranking member for the short few months I have been chairman of the Armed Services Committee. Nobody could have asked for a better partner than I have had in Senator

WARNER. There are times, of course, that we don't agree with each other, but there has never been a time I can remember in 23 years where we don't trust each other.

There is nothing more important in this body than to be able to look somebody in the eye and say that. That is something I feel very keenly. Our staffs have been extraordinary in their work. This has been a very difficult bill.

In addition to thanking Senator WARNER personally, I thank our staffs for the work they have done. Every night when I call David Lyles—every night—he is there with the staff until 10 or 11 o'clock. I do not even call him after 11 o'clock because that is when I go to bed, or at least I try to. I am pretty sure he stays on after that. I know it is true with Senator WARNER's great staff, too.

Mr. WARNER. Madam President, I thank my great chairman. He succeeded me as chairman. We just moved one seat at the table in our committee hearing room. I guess that was the only change. Of course, other things took place.

As he says, the trust is there, the respect is there. We travel. We just finished an extraordinary trip. We were the first two Members of Congress to go into the area of operations in Afghanistan, having visited our troops in Uzbekistan, our troops in Pakistan and Oman, and then on up into the Bosnia region where we visited our respective National Guards who are serving there now.

I value our friendship. I look forward to hopefully many more years working together. I thank my friend. We shall carry forward. We do this in the spirit of bipartisanship on behalf of our men and women in uniform of the United States. We are here to do the people's business, and I say to the Senator, we have done the people's business. We have been aided in that effort by Judy Ansley, my chief of staff, having succeeded Les Brownlee; and Senator LEVIN's wonderful David Lyles, and Peter Levine. I use Senator LEVIN's lawyer's legal brains as much as I use my lawyer's legal brains.

I thank our distinguished Presiding Officer, again, for helping us here tonight. I again salute and commend my staff. I am a very fortunate individual to be served so well in the Senate. We share our staffs in many ways. They get along quite well together.

Mr. LEVIN. Indeed, they do.

Mr. THURMOND. Madam President, I rise in support of the Conference Report to accompany S. 1438, the National Defense Authorization Act for Fiscal Year 2002 and to congratulate Chairman LEVIN and Senator WARNER on this agreement. Having served both as the Chairman and Ranking Member of the Senate Armed Services Committee, I am aware of the challenges they faced in reaching this compromise. It is a tribute to their leadership and strong support for our national security and our men and

women in uniform that the Senate is considering this Conference Report.

Typical of all conference reports, this legislation is a compromise between the House and Senate bills. It is not a perfect bill, however, in my judgment it is a bill that responds to the tragic events of September 11 and strengthens our national security. It will be critical to our effort to win the war against terrorism and meet the challenges of the ever increasing missile threat. To support these goals, the conference report provides more than \$15 billion. Of equal importance to our soldiers, sailors, airmen and Marines is the fact that the legislation includes the largest pay increase for military personnel since 1982, increased housing allowance and substantial improvements to the military health care benefits.

I am especially pleased that the agreement includes many programs to support our reserve components who are finally becoming equal partners to the active forces. The bill increases full time manning by more than 1,700. It provides approximately \$1.0 billion for reserves facilities enhancement and enhances both medical and commissary benefits for the men and women who serve our Nation both as a citizen and as a soldier.

As with any compromise, there are winners and losers. I am disappointed that legislation includes a provision that will severely limit the ability of the Federal Prison Industries to sell its products to the Department of Defense. This will have a significant impact on the prison system and its ability to provide programs to rehabilitate and occupy the prison population. I hope we will be able to reverse this setback with legislation that is pending in the Judiciary Committee.

Finally, I want to thank Chairman LEVIN, Senator WARNER, Chairman STUMP and Representative SKELTON for their strong support of Department of Energy programs. The conference report includes an increase of more than \$700 million for key programs, including more than \$200 million not requested in the budget to begin to recapitalize the nation's nuclear weapons complex infrastructure. As all those who have DoE facilities in their State know that much of the nuclear weapons complex infrastructure dates to the post-World War II era. It is critical that we begin to restore these facilities to ensure we maintain our nuclear capability.

This morning the House agreed to this conference report by a vote of 382 to 40. I urge my Senate colleagues to demonstrate no less support for our men and women in uniform and the Nation's security.

Ms. SNOWE. Madam President, I rise today to support the fiscal year 2002 National Defense Authorization conference report which we passed today. As a former member of the Senate Armed Services Committee and chair of the Seapower Subcommittee, I fully appreciate the hard work and long

hours my colleagues in the Senate and their counterparts in the House have dedicated to the completion of this report.

I also want to acknowledge the chairman of the Armed Services Committee, Senator CARL LEVIN, and the ranking member, the senior Senator from Virginia, Mr. JOHN WARNER, for their superb leadership throughout the entire defense authorization process.

First and foremost, the conference report continues to recognize the invaluable contributions—especially since the tragic events of September 11 and the subsequent advent of the war on terrorism—of our service members through significant improvements to their quality of life. In addition to substantial pay raises of five to ten percent, the report includes over \$10.5 billion for military housing construction, which is a desperately needed increase of over \$500 million from last year's authorization; continues to improve upon the coverage and quality of healthcare for our active duty military members, retirees, and their family members; expands education benefits for service members and their families; and enhances the ability of active duty personnel to participate in federal, state, and local elections.

Secondly, the bill reaffirms Congress' commitment to the war against terrorism by meeting the funding requirements needed to support our Soldiers, Marines, Sailors, and Airmen that are on the front lines with the planes, vehicles, ships, and armament they need to carry out their missions. Whether providing over \$30 million to improve field living conditions for the ground troops, augmenting the Army, Navy, and Air Force budgets by over \$560 million for unmanned aerial vehicles, or increasing funding for F-15 and F-16 engine conversions, this bill supports the diverse missions our armed forces are accomplishing to meet the national military strategy.

Given my tenure of the Seapower Committee and home state of Maine, I cannot overlook the substantial funding for ship construction provided by this bill. The conference report addresses the future of our nation's Navy and the importance of recapitalization of our fleet by authorizing the construction of five new ships. This includes \$3 billion for three DDG-51 *Arleigh Burke* class destroyers—the most advanced surface combatant in the world; \$370 million for the new ammunition and cargo ship, the T-AKE; and \$2.3 billion for a *Virginia* class attack submarine.

Additionally, the committee has laid substantial ground work for continuing to modernize our amphibious fleet in fiscal year 2003 through the authorization of \$421 million and \$260 million in advance procurement funding for the LPD-17 and LHD programs, respectively.

I am also pleased to see that the Committee did not lose sight of the administration's long-term goals of

transforming and modernizing the military. While we fall short of the Defense Department's goal of allocating three percent of the defense budget to investing in future defense development programs, it does include substantial funding to meet asymmetrical terrorist threats including chemical and biological weapons and develop the agility, mobility, and survivability necessary to meet the challenges of the future that we are glimpsing today in Afghanistan.

I voted for this legislation because I believe that it is critically important to ensure that our armed forces are fully prepared to carry out America's war on terrorism. However, I support the bill despite my strong opposition to provisions authorizing a round of base closures in 2005.

Even before the horrific attacks of September 11, 2001, I had serious questions about both the integrity of the base closing process itself as well as the actual benefits realized. Now, with acts of war committed against the United States, I do not believe this is the time to be talking about closure of bases.

The base closure provision in this conference report requires that the Department of Defense submit a comprehensive force structure plan to Congress detailing the relationship between defense requirements and infrastructure. This is something I have been calling for 4 years. But I believe we need this plan before we debate base closures, not after we have already authorized them. This is putting the cart before the horse.

Before we legislate defense-wide policy that will reduce the size number of training areas critical to our force readiness, the Department of Defense ought to be able to tell us that level of operational and maintenance infrastructure required to support our shifting national security requirements. Congress, instead, was pressed to authorize base closures essentially in the dark.

The administration and proponents of additional base closure rounds claim that reducing infrastructure has not kept pace with other post-cold-war military force reductions. They say that bases must be downsized proportionate to the reduction in total force strength. However, there is no straight line corollary between the size of our forces and the infrastructure required to support them.

Since the end of the cold war we have reduced the military force structure by 36 percent and have reduced the defense by 40 percent. But while the size of the armed services has decreased, the number of contingencies that our service members have been called upon to respond to in recent years has dramatically increased. And, keep in mind, Mr. President, once property is relinquished and remedied, it is permanently lost as a military asset for all practical purposes.

In addition, advocates of base closure alleged that billions of dollars will be

saved. And yet, the Department of Defense has admitted that savings will not be immediate; that approximately \$10 billion would be needed for up-front environmental and other costs; and that savings would not materialize for years.

I want to protect the military's critical readiness and operational assets. I want to protect the home port berthing for our ships and submariners, the airspace that our aircraft fly in and the training areas and ranges that our armed forces require to support and defend our Nation and its interests. I want to protect the economic viability of communities in every State. And I want to make absolutely sure that this nation maintains the military infrastructure it will need in the years to come to support the war of terrorism. We must not degrade the readiness of our armed forces by closing more bases, so I strenuously oppose the base closure provisions win this legislation, and before it is a fundamental mistake to include it in the DOD authorization.

With the exception of the basis closure provisions, this defense bill takes a positive stem toward modernizing our armed services, meeting their operational and maintenance funding requirements, and improving the quality of service for our committed men and women of the military.

Mr. SCHUMER. Madam President, I rise today to express dissatisfaction with language included in the conference report on the National Defense Authorization Act for the Fiscal Year 2002 that repeals the requirement for a referendum on the future of U.S. military training on the island of Vieques, PR. Although, in the interest of national security, I voted for the adoption of the report, I am deeply disturbed by the manner in which the people of Vieques have been deprived of the right to decide for themselves as to whether or not they wish to allow the U.S. military to continue using their island as a military training facility.

I certainly agree with those who argue that in times like these, when the U.S. is heavily involved in military conflict, that we must take every possible step to ensure the readiness of our troops. However, I believe it is safe to say the people of Vieques have endured more than their fair share of sacrifice for the good of America, and the cause of U.S. military readiness. We must recognize the sacrifices made by the people of Vieques, and provide them with the consideration they deserve as American citizens.

By repealing the requirement that the people of Vieques have a referendum to decide whether or not the U.S. military is allowed to continue to presence on the Island, this Congress has taken a dangerous step toward curtailing the inalienable rights to which those who call the island home are entitled as U.S. citizens. I find that outcome to be deeply troubling.

As I close, I would like to make perfectly clear that I fully support the ef-

forts of the U.S. military to maintain its readiness to defend our nation, as it is so bravely and effectively doing as we speak. However, I feel that the choice between maintaining readiness and protecting the rights of American citizens on Vieques is a false choice, and one that we do not have to live with. The Department of Defense, by its own estimates, if directed to do so should be able to leave the island by 2003 without a detrimental effect on military readiness. This knowledge makes the decision of this body to strip the people of Vieques of a voice in their future all the more perplexing.

Sixty years of bombing has taken its toll on Vieques. The US citizens of Vieques and Puerto Rico have been patient long enough. They should be permitted a free and fair ability to express their wishes, which is a cornerstone of our great democracy. The language in this Bill which pertains to Vieques diminishes the rights of the citizens of Puerto Rico and I believe the Senate should revisit this issue during the next session.

Mr. MCCAIN. Madam President, I rise today in opposition to the conference report to accompany S.1438, the National Defense Authorization Act for fiscal year 2002. I am disappointed that the conference agreement did not include some key legislative provisions that I had sponsored in the Senate during the course of the normal legislative process which would have begun to transform the military as requested by the President. Some of the provisions in this bill that I find objectionable are provisions that: delay base realignment and closure, BRAC, authority until 2005, codify the anti-trade domestic source restrictions of the Berry amendment, and continue the unfair personnel policy which financially hurts disabled military retirees by reducing their earned military retirement. This is a broken promise to military retirees and their families, year after year. These are also the reasons why I did not sign the final conference agreement.

With respect to concurrent receipt, clearly, retirees who have incurred significant disabilities over the course of a military career deserve better than how they are treated today. Many such service members are compelled to forfeit their full-retired pay under current rules. I have stated before on the Senate floor, and I am compelled to reiterate now, retirement pay and disability pay are two distinct types of pay.

Retirement pay is for service rendered through 20 years of military service. Disability pay is for physical or mental pain or suffering that occurs during and as a result of military service. In this case, members with decades of military service receive the same compensation as similarly disabled members who served only a few years, with no recognition at all for their more extended, careers of service to our country. This is patently unfair

and more must be done to correct this problem.

I would also like to highlight that this year's defense authorization bill contained \$1.3 billion in unrequested add-ons to the defense budget that will rob our military of vital funding on priority issues. While this year's total is less than in previous years, and is far less than the \$4.5 billion in the defense appropriations bill, it is still \$1.3 billion too much. We need to, and can do, better.

Over the past 6 years, Congress has increased the President's defense budgets by nearly \$60 billion in order to address the military services' most important unfunded priorities. Still, it is sufficient to say that the military needs less money spent on pork and more money spent wisely to redress the serious problems caused by a decade of declining defense budgets.

We also must reform the bureaucracy of the Pentagon, this bill does not. We did not even make significant improvements requested by the President and the Secretary of Defense when he presented his budget for fiscal year 2002. With the exception of minor changes, our defense establishment looks just as it did 50 years ago. We must continue to incorporate practices from the private sector-like restructuring, reforming, and streamlining to eliminate duplication and capitalize on cost savings. More effort must be made to reduce the continuing growth of headquarter staffs and to decentralize the Pentagon's labyrinth of bureaucratic fiefdoms to change its way of doing business with its bloated staffs and its outdated practices.

In addition, more must be done to eliminate unnecessary and duplicative military contracts and military installations. Every U.S. military leader has testified regarding the critical need for further BRAC rounds. We can redirect at least \$6.3 billion per year by eliminating excess defense infrastructure. There is another \$2 billion per year that we can put to better purposes by privatizing or consolidating support and maintenance functions, something not considered in either body, and an additional \$5 billion can be saved per year by eliminating "Buy America" restrictions that only undermine U.S. competitiveness overseas. Despite these compelling facts, the conference agreement on the contrary, includes several provisions that move demonstratively in the opposite direction.

The conference agreement delays a base realignment and closure, BRAC, round until 2005. There is no good reason to delay BRAC. By doing so, too many servicemen and women will continue to live in old and dilapidated barracks and homes because we have too many bases. Although I would prefer to say that base closing is a new idea, it isn't. In 1970, the Blue Ribbon Defense Panel, "Fithugh Commission", made reference to "consolidation of military activities at fewer installations would contribute to more efficient operations

and would produce substantial savings." In 1983, the President's Private Sector Survey on Cost Control, "Grace Commission", made strong recommendations for military base closures. In 1997, the Quadrennial Defense Review, QDR, recommended that, even after four base closure rounds in 1988, 1991, 1993 and 1995, the Armed Forces "must shed excess infrastructure." Likewise, the 1997 Defense Reform Initiative, DRI, and the National Defense Panel, NDP, "strongly urged Congress and the Department of Defense to move quickly to restore the base realignment and closure, BRAC, process."

Defense Secretary Rumsfeld, former Secretaries Dick Cheney and William Cohen, the Chairman of the Joint Chiefs, all the Service Chiefs, the Congressional Budget Office, and other respected defense experts have been consistent in their plea that the Pentagon be permitted to divest themselves of excess infrastructure beyond what was eliminated during the prior rounds of base closings. Through the end of 1998, the Pentagon had closed 97 major bases in the United States after four previous rounds of BRAC. Since then, it has closed none. Moreover, the savings from closing additional unneeded bases would be shifted to force modernization.

The Department of Defense is obligated to maintain 23 percent excess capacity in infrastructure. When we actually look for the dollars to pay for the Unfunded Priority Lists as provided by the Service Chiefs, it is important to look to the billions of dollars that would be saved by base realignment and closure. Only 30 percent of the defense budget funds combat forces, while the remaining 70 percent is devoted to support functions such as bases. Continuing to squander precious dollars in this manner will make it impossible for us to adequately modernize our forces for the future. The Joint Chiefs of Staff have stated repeatedly that they desire more opportunities to streamline the military's infrastructure.

Total BRAC savings realized from the four previous closure rounds exceed total costs to date. Department of Defense figures suggest previous base closures will save, after one-time closing costs, \$15 billion through fiscal year 2001, \$25 billion through fiscal year 2003 and \$6.3 billion a year thereafter. Additional needed closures can save \$20 billion by 2015, and \$3 billion a year thereafter. Sooner or later these surplus bases will be closed anyway. The sooner the issue is addressed, the greater will be the savings that will ultimately go toward defense modernization and greater pay raises for service members. Delaying the BRAC process, as we have done in this Conference Report, only harms force modernization and hurts the pocket book of service members, their families and military retirees.

We can continue to maintain a military infrastructure that we do not need, or we can provide the necessary

funds to ensure our military can fight and win future wars. Every dollar we spend on unnecessary bases precludes our military leaders from spending scarce resources on training our troops, keeping personnel quality of life at an appropriate level, maintaining force structure, replacing old weapons systems, and advancing our military technology.

In my view, the Committee on Armed Services took a step backwards by codifying in Title 10 "Buy America" restrictions which divert necessary funds to ensure our military is properly equipped. Every dollar we spend on archaic procurement policies, like "Buy America," is a dollar we cannot spend on training our troops, keeping personnel quality of life at an appropriate level, maintaining force structure, replacing old weapons systems, and advancing our military technology.

It would be unconscionable not to examine the potential for savings from modifying congressionally-mandated protectionist procurement policy instead of codifying in Title 10 procurement legislation which obligates the Department of Defense to maintain wasteful spending. Secretary Rumsfeld and the Joint Chiefs of Staff have stated repeatedly that they want more flexibility to reform the military's archaic acquisition practices. We need to give them that flexibility.

I have spoken of this issue before in this Chamber and the potential impact of certain domestic source restrictions on bilateral trade relations with our allies. From a philosophical point of view, I oppose protectionist trade policy, not only because I believe free trade is an important means of improving relations among nations and a key to major U.S. economic growth, but also because I believe we must reform these practices in order to get more bang for our defense dollars.

It is my sincere hope that next year the chairman and ranking member of the committee will hold hearings on this issue and start serious reform. It is important to point out that the Secretary of Defense and the President do not like, nor do they want this protectionist policy, codifying it as the chairman and ranking member have done, absent any hearings or consultation with members of the committee who have strong views on this matter shows disregard to an informed or proper committee process. We must end once and for all the anti-competitive, anti-free trade practices that encumber our Government, the military, and U.S. industry.

Finally, I am disappointed that the conferees did not adopt legislation by Representative Heather Wilson, R-NM, that would rescind a congressionally-mandated provision added in the National Defense Authorization Act for Fiscal Year 1992 over the strong objections of the civilian and military leadership and would return Second Lieutenants and Ensigns to regular commissions vice reserve commissions

upon graduation from one of the Service Academies or certain ROTC scholarship programs.

Service Academies have a unique opportunity and special responsibility to provide an environment that cultivates, indeed demands, the internalization of honor, loyalty, integrity, and moral courage, the qualities essential to developing leadership. The core of our officer commissioning program are the Service Academies, this is not to say that the ROTC, OCS, and other critical commissioning programs are not outstanding, they are, just look at our current military leadership: Chairman of the Joint Chiefs, General Richard Myers, Chief of Naval Operations, Admiral Vern Clark, and Marine Corps Commandant General Jim Jones. I believe returning to regular service commissions for Academy and certain ROTC junior officers will inspire a core of career-oriented officers for our military.

In conclusion, I would like to reiterate my belief in the importance of enacting meaningful improvements for active duty and Reserve service members. They risk their lives in Afghanistan and elsewhere to defend our shores and preserve democracy, and we cannot thank them enough for their service. But, we can and should pay them more, improve the benefits for their families, and support the Reserve Components in a manner similar to the active forces. Our service members past, present, and future need these improvements. We also cannot continue with this "business as usual" mind set. We must reform the Department of Defense and not fall prey to the special interest groups that attempt to warp our perspective and misdirect our spending. We owe so much more to our men and women in uniform who defend our country. They are our greatest resource, and I believe they are woefully under-represented. We must continue to do better.

I ask unanimous consent that a list of items added to the defense authorization bill Conference Report by the Conference Committee be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### Fiscal Year 2002 DEFENSE AUTHORIZATION BILL CONFERENCE REPORT

[In million of dollars]

Title I—Procurement	
Aircraft Procurement, Army Rotary Wing: Helicopter New Training ..	\$25.0
Other Procurement, Comm-Combat Communications: Improved High Frequency Radio, USAR ..	5.0
Shipbuilding and Conversion, Navy—Auxiliaries, Craft and Prior Year Program Costs: Mine Hunter SWATH ..	2.0
Missile Procurement, Air Force—Other Support, Space Programs: NUDET Detection System ..	22.7
Title II—Research, Development, Test and Evaluation	
Army:	
Materials Technology ..	5.0
Combat Vehicle and Automotive Technology ..	15.0
Countermine Systems ..	5.5
Medical Advanced Technology ..	5.0
Combat Vehicle and Automotive Advanced Technology ..	13.0
Environmental Quality Technology Dem/Val ..	7.0
Family of Heavy Tactical Vehicles ..	1.5

#### Fiscal Year 2002 DEFENSE AUTHORIZATION BILL CONFERENCE REPORT—Continued

[In million of dollars]

Navy: Communications, Command and Control, Intelligence, Surveillance ..	5.0
Air Force: Space and Missile Rocket Propulsion ..	2.0
Defense Wide:	
Cooperative DoD/VA Medical Research ..	2.5
Commercial Operations and Support Savings Initiative ..	15.0
Title III—Operations & Maintenance	
Army: (Budget Activity 01: Operating Forces):	
Land Forces Divisions: ECWCS/MSS ..	4.0
Land Forces Readiness:	
M-Gator ..	6.6
Range Instrumentation ..	6.0
Budget Activity 04: Administration & Servicewide Activities Logistics Operations:	
Logistics Support Activities: Maintenance AIT/RFID ..	9.0
Replacement Containers, Ft. Drum ..	1.0
Electronic Maintenance & Point-to-Point Wiring ..	4.0
Other, Army: Defense Language Institute Foreign Language Center Basic Skills and Advanced Training, Navy: Professional Development Education Aviation Depot Apprenticeship Program ..	0.65
Other, Navy:	
Veterans Affairs Renovations/Great Lakes ..	2.0
United Through Reading Program ..	0.18
Marine Corps (Budget Activity 04: Administration & Servicewide Activities): Canceled Account, Full Spectrum Battle Equipment	6.8
Air Force (Budget Activity 04: Administration & Servicewide Activities):	
Logistics Operations: Aging Propulsion System Life Extension ...	10.0
Other, Air Force:	
Lafayette Escadrille ..	2.0
Scot Life Support System ..	6.0
Spares Information System ..	7.0
Defense-Wide (Budget Activity 04: Administration & Servicewide Activities):	
Defense Logistics Agency: CTMA Depot-level Actions ..	20.0
Office of the Secretary of Defense:	
Information Assurance Scholarships—Addition ..	3.5
Legacy Resource Management Program ..	6.5
Other, Defense-Wide:	
Impact Aid ..	31.0
Impact Aid—Children with Disabilities ..	5.0
Army Reserve (Budget Activity 01: Operating Forces):	
Land Forces: Division Forces ECWCS/MSS ..	2.0
Land Forces Readiness: Forces Readiness Operations Support Controlled Humidity Preservation ..	25.0
Army National Guard (Budget Activity 01: Operating Forces):	
Land Forces: Division Forces ECWCS/MSS ..	4.0
Other:	
Transfer Accounts: Env Rest, Formerly Used Defense Sites ...	40.0
Miscellaneous: Payment to Kaho'olawe Island ..	15.0
Department of Energy, National Security Program	
National Nuclear Security Administration Weapons Activities:	
Construction:	
Microsystem and engineering science applications (MESA), SNL ..	37.0
Atlas relocation, Nevada test site Las Vegas, NV ..	3.3
Renovate Existing Roadways ..	2.0
MILCON	
Alabama:	
Army:	
Fort Rucker Aircraft Parts Warehouse ..	6.8
Restore Arsenal Ammunition Surveillance Facility ..	2.7
Air National Guard: Dothan AGS Combat Communications Complex ..	11.0
Alaska:	
Army: Fort Richardson Mout Training Facility ..	18.0
Air National Guard: Juneau Readiness Center ..	7.57
Arizona:	
Army: Yuma Proving Grounds Range Improvements ..	3.1
Air Force: Davis Monthan AFB Child Development Center ..	6.2
Air Force Reserve: Luke AFB Add/Alter Squadron Operations Facility ..	1.4
Arkansas:	
Air Force: Little Rock AFB Fire Station ..	7.5
Army Reserve: Conway Reserve Center/Organizational Maintenance Shop ..	5.63
California:	
Army:	
Fort Irwin Direct Support Maintenance Shop ..	23.0
Monterey Defense Language Institute Barracks Complex ..	5.9
Navy: China Lake Naval Air Warfare Center Propulsion and Explosives Lab ..	10.1
Air Force:	
Beale AFB Communications Operations Center ..	7.9
Travis AFB Radar Approach Control Center ..	3.3
Army National Guard: Azusa Readiness Center ..	14.01
Air Force Reserve: March ARB Fire/Crash Rescue Station ..	7.2
Colorado:	
Air Force: Schriever AFB Secure Area Logistics Facility ..	11.4
Delaware:	
Dover AFB Fire Station ..	7.3
Florida:	
Navy: Pensacola Naval Air Station Consolidated Fire Station ..	3.7
Air Force: Tyndall AFB Add/Alter Communications Facility ..	5.3

#### Fiscal Year 2002 DEFENSE AUTHORIZATION BILL CONFERENCE REPORT—Continued

[In million of dollars]

Army Reserve: St. Petersburg Armed Forces Reserve Center .....	34.06
Air Force Reserve: Homestead ARB Add/Alter Communications Facility .....	2.0
Georgia:	
Air Force: Moody AFB Fitness Center .....	8.6
Hawaii:	
Army (Pohakuloa Training Area):	
Land Acquisition (Kahuku Windmill Site) .....	0.9
Land Acquisition (Parker Ranch) .....	1.5
Navy: Ford Island Water Line Replacement .....	14.1
Illinois:	
Army: Rock Island Arsenal Child Development Center .....	3.5
Indiana:	
Navy: Crane Surface Warfare Center Microwave Devices Engineering Facility .....	9.11
Defense-Wide: Newport Army Ammunition Plant Ammunition Demil Facility .....	66.0
Air National Guard: Fort Wayne IAP Upgrade Aircraft Parking Ramp and Taxiway .....	8.5
Kansas:	
Air Force: McConnell AFB Health and Wellness Center .....	5.1
Kentucky:	
Army: Fort Knox Multi-Purpose Digital Tank Range .....	12.0
Defense-Wide: Bluegrass Army Depot Ammunition Demilitarization Facility .....	3.0
Louisiana:	
Air Force: Barksdale AFB Control Tower .....	5.0
Navy Reserve: New Orleans Joint Reserve Base Joint Reserve Center .....	10.0
Maine:	
Navy: Portsmouth Naval Shipyard Bachelor Enlisted Quarters ...	14.62
Maryland:	
Army: Fort Meade Operations Facility (55th Signal Company) ...	5.4
Navy: St. Inigoes Navalex Communications Integration Facility ..	5.1
Defense-Wide: Aberdeen Proving Ground Ammunition Demilitarization Facility .....	66.5
Massachusetts:	
Air National Guard: Barnes ANGB Upgrade Support Facilities ...	5.2
Michigan:	
Army National Guard: Augusta TASS Instruction/Administration/Barracks/ Mess Hall .....	13.32
Air National Guard: W.K. Kellogg Airport Munitions Maintenance and Storage Complex .....	9.5
Minnesota:	
Air National Guard: Duluth IAP Composite Aircraft Maintenance Complex .....	10.0
Air Force Reserve: Minneapolis-St. Paul ARS Consolidates Lodging Facility .....	8.4
Mississippi:	
Navy:	
Pascagoula Naval Station Fleet Operations Facility .....	4.68
Meridan Naval Air Station T-45 Aircraft Support Facility .....	3.37
Air Force Columbus AFB Radar Approach Control Center .....	5.0
Army National Guard: Batesville Readiness Center .....	3.05
Army Reserve: Gulfport CBC Controlled Humidity Storage Warehouse .....	12.18
Montana:	
Air Force: Malmstrom AFB Child Development Center .....	4.65
Nevada:	
Navy: Fallon Naval Air Station Water Treatment Capital Improvements .....	6.15
Air Force: Nellis AFB Land Acquisition .....	19.0
New Jersey:	
Army: Picatinny Arsenal High Energy Propellant Formulation Facility .....	10.2
Navy: Earle Navy Weapons Station Explosive Truck Holding Yards .....	4.37
Air Force: McGuire AFB Air Freight Terminal/Base Supply Complex .....	12.6
New Mexico:	
Army: White Sands Missile Range Professional Development Center .....	7.6
Air Force: Kirtland AFB Upgrade Small Arms Range Support Facility .....	4.3
New York:	
Army: Fort Drum Training Area Access Road .....	18.5
Air National Guard: (Hancock Field):	
Civil Engineering Facility .....	1.5
Composite Readiness Support Facility .....	2.5
Niagra Falls IAP Fuel Cell/Corrosion Hangar Addition .....	2.8
North Carolina:	
Army National Guard: Fort Bragg Military Education Facility .....	8.29
North Dakota:	
Air National Guard: Hector IAP Weapons Release Systems Complex .....	5.0
Ohio:	
Air Force Wright-Patterson AFB, Security Gate, Base Entrance ...	3.4
Army National Guard:	
Bowling Green Readiness Center .....	3.2
Coshocton Readiness Center .....	2.63
Air National Guard: Springfield-Beckley Municipal Airport .....	10.6
Oklahoma:	
Army National Guard: Oklahoma City Readiness Center .....	9.32
Oregon:	
Army National Guard: Eugene Joint Armed Forces Reserve Center .....	8.3

Fiscal Year 2002 DEFENSE AUTHORIZATION BILL  
CONFERENCE REPORT—Continued

(In million of dollars)

Pennsylvania:	
Navy: Philadelphia Naval Foundry and Propeller Center Machine Shop Modernization .....	14.8
Army Reserve: Johnstown Transient Quarters .....	3.0
Rhode Island:	
Navy: Newport Naval Station Unmanned Undersea Combat Vehicle Laboratory .....	9.37
South Carolina:	
Army: Fort Jackson Central Energy Plant .....	3.65
Air Force Shaw AFB Education Center .....	5.8
South Dakota:	
Air Force: Ellsworth AFB Live Ordnance Loading Area .....	12.2
Air National Guard: Joe Foss Field/Soux City Runway/Taxiway Improvements .....	6.5
Tennessee:	
Air National Guard: Nashville IAP Replace Aircraft Maintenance Complex .....	11.0
Texas:	
Army:	
Corpus Christi Army Depot Energy Disassembly and Cleaning Facility .....	10.4
Fort Bliss Replace Elevated Water Tanks .....	5.0
Air Force:	
Laughlin AFB Security Forces Complex .....	3.6
Sheppard AFB Fitness Center/Health and Wellness Center .....	8.2
Dyess AFB C-130 Squadron Operations Facility .....	16.8
Navy Reserve: Fort Worth Joint Reserve Base Bachelor Enlisted Quarters Modernization .....	9.06
Vermont:	
Air National Guard: Burlington IAP Vehicle Maintenance Complex .....	5.6
Virginia:	
Navy: Little Creek Naval Amphibious Base Personnel Support Facility .....	9.09
Air National Guard: Fort Pickett Maneuver and Equipment Training Site .....	10.7
Washington:	
Navy:	
Puget Sound Naval Shipyard Industrial Skills Center .....	14.0
Whidbey Island Naval Air Station .....	3.9
West Virginia:	
Army National Guard:	
Williamstown Readiness Center .....	6.43
Glen Jean Reserve Center/Organizational Maintenance Shop ..	21.38
Air National Guard: Yeager Airport Base Civil Engineer Maintenance Complex .....	4.1
Wisconsin:	
Air National Guard: Volk Field Control Tower .....	5.7
<b>Total FY02 Defense Authorization Bill Conference Report Pork=\$1.3 Billion</b>	

Mr. BIDEN. Madam President, 9 months ago I stood before this body as a proud cosponsor of the Retired Pay Restoration Act of 2001. This bill, which I also cosponsored in the last Congress, seeks to redress a major inequity that has resulted in a serious slight to the dedicated men and women who have selflessly served our Nation. It is an injustice that has puzzled me for decades.

Current law bans so-called "concurrent receipt" of VA disability compensation and military retired pay, so that the amount of any VA disability payment to a military retiree is subtracted from the monthly retirement check. The obvious flaw of this rule is clear to the vast majority of the members of this body and to most members of the House. In its original form, this legislation garnered 78 cosponsors in the Senate and a whopping 378 members in the House. It seems that this was something that should have made it through the Conference Committee process without much question. But, unfortunately, what we saw emerge from conference was a real disappointment to me, to many Members of this body, and most of all, to our brave men and women—both those who have served in the past and those who continue to serve and continue to face the risk of disability.

Here was an opportunity—a real chance to address a serious inequity and we let it fall by the way side. What message are we sending to our Armed Services? This incongruity only hurts those men and women who have devoted the majority of their working lives to our Nation because it only affects military retirees. If a soldier retires from the service after 20 years and has sustained a service-connected disability along the way, then their VA disability payments are subtracted from their military pensions. It makes no sense that those in uniform who suffer a service-connected disability end up being penalized for deciding to remain in the military, while those who chose to leave the military receive their disability payments along with any pension they may receive from an additional employer. The longer you serve in the military, the more you are penalized. Does this make sense? It doesn't to me. They surely have earned both.

We have been fighting this fight now for too long. Year after year, it is brought to the floor and year after year Senators stand up and sing its praises. Now more than ever, Americans are painfully aware of what the sacrifices of our Armed Forces mean to us all. The horrific attacks upon our country on September 11 and the recent 60th anniversary of the attack on Pearl Harbor have made us all appreciate the millions of Americans who have selflessly served our nation and continue to protect our freedoms today. When our troops eventually return from serving in Afghanistan, undoubtedly there will be some among them who will find themselves penalized by our inability to correct this wrong. I am frustrated that even in this time when the importance of our troops is more evident than ever, we continue to shortchange our veterans.

So here we are—poised to send a vastly reduced version of legislation that had huge bipartisan support in Congress to the President for signature. It is my hope the minor concessions made under the Department of Defense authorization conference report will serve as a stepping-stone for future improvements. But still, how many more military retirees must see their VA disability payments reduce their retirement benefits before more meaningful changes are made and this inequality is ended?

We have troops in the field as I speak, putting their safety on the line to protect our way of life, and passage of this Defense Authorization bill is vital to our military operations. So it is important that this bill be passed. But, I want to put my colleagues and this administration on notice, this isn't the last battle in this war. One day those who put their lives at risk by wearing the uniform of this country, and who become disabled from their service, won't be punished for their duty. This is an unfairness that should have been corrected years ago, and an

unfairness that will continue to plague those who offered their lives for the freedom we all enjoy. There is too much at stake here and I am not going to give up the fight to enact full concurrent receipt until we get this corrected.

Mr. CRAIG. Madam President, I want to address one provision of this very important bill having to do with Department of Energy facilities. This bill will require the Department of Energy to submit to Congress a plan for the infrastructure of the nuclear weapons complex. This will include those facilities that support the nuclear weapons stockpile, the naval reactors program, and nonproliferation and national security activities.

In my view, we have not seen adequate investment in the Department of Energy's facilities over the last 10 years. This is true of the facilities and infrastructure that support both the defense and civilian missions of the Department of Energy. In addition to its vital national security missions, DOE is a premier science agency of the U.S. Government. I am encouraged that my colleagues want to begin to address the decline in DOE's infrastructure. I think this plan will be an opportunity for DOE to begin a dialog with Congress on what levels of new investment are needed.

The Naval Reactors Program—a joint DOE and Navy program—has a very proud history at the Idaho National Engineering and Environmental Laboratory in my State. Although this program is not as active as it historically was in Idaho, the critical mission of fuel examination and storage continues at the Naval Reactors Facility. This work allows our country to have continued confidence in the ability to send our nuclear-powered naval vessels to any global hotspot or point of conflict, on short notice and fully fueled. In this way, nuclear power continues its critical role in our national defense.

Given the technical excellence of the Naval Reactors Program, I am confident that as long as the Navy sends its spent nuclear fuel to Idaho for examination and storage, they will provide for the safekeeping of this material until a deep geologic repository is opened. In fact, the Navy is party to a court-enforceable agreement with the State of Idaho that commits to this very objective. I look forward to working with my colleagues in Congress, with the Navy and with DOE on securing a robust nuclear infrastructure within the DOE complex.

Mr. LIEBERMAN. Madam President, I am very pleased that the National Defense Authorization Act, which the Senate has passed, includes a provision to allow Federal civilian employees and military personnel, as well as their family members, to make individual use of frequent-flyer miles and other promotional benefits offered as a result of official Government travel. This measure, found in section 1116 of the legislation, will correct a glaring inequity that exists between government



and private sector employees for work-related travel. The time has come for us to recognize that the current prohibition on frequent flyer benefits is unfair to our Federal workforce as well as unnecessary for good government. In fact, by making these benefits available to government workers, we will help make Federal service more competitive with the private sector.

I am especially proud that this measure applies to military personnel, many of whom are deployed in hostile environments, far from home and family. This time of war brings home the fact that every soldier, sailor, pilot and marine who serves our country around the clock deserves the best treatment we can offer.

This provision originated in an amendment to the Defense Authorization bill offered in the Armed Services Committee in September by Senator WARNER and myself, and was further developed as S. 1498, a bill which I introduced in October with Senators THOMPSON, AKAKA, WARNER, and VOINOVICH, and which provided the basis for the final language of section 1116.

I ask unanimous consent that a section-by-section analysis of this provision be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### SECTION-BY-SECTION ANALYSIS

##### SECTION 1116—RETENTION OF TRAVEL PROMOTIONAL ITEMS

*Subsection (a)—Definition.* The term “agency” has the meaning given under 5 U.S.C. § 5701.

*Subsection (b)—Retention of Travel Promotional Items.* This subsection provides that government personnel and others may make personal use of frequent flyer miles and other promotional items received from official travel. Official travel may be either at Government expense or accepted by the Government from a non-Federal source. This provision is comprehensive, covering travel by civilian, military, and foreign-service personnel, family members when on official travel (as when personnel are being relocated), and any other individuals (such as academic experts or fellows) who may travel at Government expense (or accepted by the Government from a non-federal source).

*Subsection (c)—Limitation.* This subsection (c) provides that only “agencies” (as defined in subsection (a)) are covered by the section. Paragraph (1) of subsection (c) states that only travel at the expense of such an agency (or accepted by the agency from a non-federal source) is covered by the section, and paragraph (2) states that travel by an officer, employee, or other Government official who is not in such an “agency” is not covered. Thus, Government personnel in one agency are covered even if they are traveling at the expense of another agency, but Government personnel are excluded if they are not in any agency, even if an agency is paying for the travel.

As noted above, subsection (a) applies the definition of “agency” in 5 U.S.C. § 5701, and that definition is further established by 5 U.S.C. §§ 101–105, which define certain terms used in 5 U.S.C. § 5701. The section thus covers all executive and military departments and most other executive-branch agencies. In the legislative branch, the section covers the

General Accounting Office, the Library of Congress, the Government Printing Office, and other legislative-branch agencies. All offices and agencies in the judicial branch are covered.

Governmental entities outside of the definition of “agency” in 5 U.S.C. § 5701 are not considered to be covered by the existing ban on personal use of frequent flyer miles in section 6008 of the Federal Acquisition Streamlining Act, and have established their own rules and policies on this subject—some allow their employees to use frequent flyer miles and some do not. This section would not affect any of these entities. These entities include the U.S. Postal Service, government-controlled corporations, and the House and Senate.

*Subsection (d)—Regulatory Authority.* This subsection provides that an agency with authority to regulate official travel may issue regulations necessary to carry out subsection (a) with respect to promotional items granted in connection with such travel. So, for example, for travel by members of the foreign service, the Secretary of State may issue such regulations; for travel by members of the uniformed services, the secretaries of the respective services may issue such regulations; and for travel by most other civilian employees, the Administrator of GSA may issue such regulations.

*Subsection (e)—Repeal of Superseded Law.* This subsection repeals section 6008 of the Federal Acquisition Streamlining Act, which now requires that awards under a frequent traveler program or other promotional items accrued through official travel be used only for official travel.

*Subsection (f)—Applicability.* This subsection provides that the section shall apply to promotional items received before, on, and after the date of enactment.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AGRICULTURE, CONSERVATION, AND RURAL ENHANCEMENT ACT OF 2001—Continued

##### AMENDMENT NO. 2598

Mr. HARKIN. Madam President, what is the business before the Senate at this time?

The PRESIDING OFFICER. The business before the Senate is the McCain amendment to the substitute.

Mr. HARKIN. The McCain amendment to the substitute is the pending business.

The PRESIDING OFFICER. The McCain amendment to the underlying bill.

Mr. HARKIN. We would like to debate it. I ask if anyone knows where Senator MCCAIN is; we would like to debate the amendment. He is not here, so we cannot debate the amendment.

What I would like to do—I wonder if I can work with the ranking member to see if we can make some progress on this bill tonight. I would like to ask consent to withdraw the McCain

amendment, with the understanding that tomorrow morning when we come in, the McCain amendment will be put in order on the substitute after we debate the Wellstone amendment and lay it aside tomorrow. We will not dispose of it until we come back next week.

I am saying that we take the McCain amendment off tonight so we can deal with other things, with the understanding or with the agreement, with the consent that tomorrow morning the first thing we will turn to is the Wellstone amendment, as I understand; when the debate is finished on the Wellstone amendment, Senator MCCAIN be recognized to offer his amendment on the substitute, and it can be debated.

The PRESIDING OFFICER. Is there objection?

Mr. LUGAR. Reserving the right to object, I just wish to respond to my colleague.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Madam President, I think he is outlining a reasonable course of activity. As I understand the Senator's proposal, Senator WELLSTONE would debate his amendment; others would debate the amendment. As we know, a rollcall vote will not be in order, given the unanimous consent agreement, until Tuesday. Therefore, after that debate, this will be laid aside, and then Senator MCCAIN will be recognized so we can proceed then, as the Senator from Iowa has suggested, to amend the—whichever—the underlying amendment at that point; is that what the Senator said? In any event, whatever appears to be in order so he is able then to complete the debate on his amendment.

Mr. HARKIN. Maybe I should inquire of the President, what is the order right now?

The PRESIDING OFFICER. The McCain amendment.

Mr. HARKIN. Further inquiry, Madam President. Is there a consent agreement now in order which lines up some other amendments?

The PRESIDING OFFICER. No, there is not.

Mr. HARKIN. There is not. May I further inquire, where is the Smith amendment and the Torricelli second-degree amendment thereto in the order of things right now?

The PRESIDING OFFICER. Those are pending to the substitute.

Mr. HARKIN. If they are pending to the substitute, then the Wellstone amendment will be to the substitute, and so we will have to lay aside the Smith and Torricelli amendments tomorrow morning in order to go to Wellstone.

The PRESIDING OFFICER. That is correct, as well as laying aside the McCain amendment.

Mr. HARKIN. Well, then, let's see if we both have the same understanding of this. What we would do tomorrow morning is lay aside the pending Smith amendment and the Torricelli second-degree amendment thereto. We would